

Vol. 10, No. 5
September/October 2001
\$9.00



Intellectual Ammunition

Research and commentary for elected officials from the nation's leading think tanks.

Visit us online at www.heartland.org

Potshots

Prostitution may be the oldest profession, but tax collection was surely not far behind.

The Economist, January 2000

Economic statistics are like a bikini. What they reveal is important, but what they conceal is vital.

SIR FRANK HOLMES

When [journalists] report that Bush has 'problems with environmentalists,' they are saying that Bush has a problem with Democrats, liberal Democrats.

R. EMMITT TYRRELL, JR.

The difference between a political hack and a statesman is retirement.

JOHN FUND

Politicians are wonderful people, as long as they stay away from things they don't understand, such as working for a living.

PJ. O'ROURKE

If you cannot improve upon the silence, then keep your durn mouth shut, boy.

CHARLEY REESE, QUOTING AN "ASIAN SAGE"

From an 11-year-old's science exam: "To keep milk from turning sour, keep it in the cow."

Curbing Government Lawsuit Abuse

by General Bill Pryor

Eleven years ago, in *Morrison v. Olson*, Justice Antonin Scalia was the lone member of the U.S. Supreme Court to vote to declare the independent counsel law unconstitutional. The beginning of his dissenting opinion is worth reading. Justice Scalia wrote,

It is the proud boast of our democracy that we have "a government of laws and not of men." Many Americans are familiar with that phrase; not many know its derivation. It comes from Part the First, Article XXX, of the Massachusetts Constitution of 1780, which reads in full as follows:

"In the government of this Commonwealth, the legislative department shall never exercise the executive and judicial powers, or either of them: The executive shall never exercise the legislative and judicial powers, or either of them: The judicial shall never exercise the legislative and executive powers, or either of them: to the end it may be a government of laws and not of men."

The Framers of the Federal Constitution similarly viewed the principle of separation of powers as the absolutely central guarantee of a just Government.

POWER SHIFT

The recent government suits against the tobacco and firearms industries trample upon this central feature of the rule of law. The aim of this litigation is to shift the awesome powers of legislative bodies—commercial regulation, taxation, appropriation, and the power to change law—to the judicial branch of government. Even some propo-

nents candidly admit this agenda.

By utilizing litigation to achieve new regulation, the proponents of government expansion have a powerful new tool. If the new regulations are "voluntarily" accepted by the industry through a settlement agreement, then the constitutional and other legal objections become moot.

Through this form of extortion by litigation, what has become impossible legally and politically suddenly becomes possible, even attractive . . . or worse, inevitable. The historic respect of the common law for freedom of contract and private property is destroyed when the manufacturer of legal but dangerous products can be hauled into court to pay huge sums that were unforeseeable when the manufacturer first calculated the risks of investing in that market.

REVENUE RAISER

The main objective of the tobacco lawsuits, despite the rhetoric of proponents, was to raise revenue. Indeed, the tobacco settlement repre-

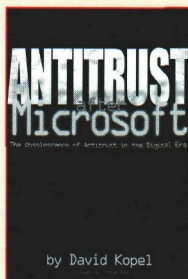
continued on page 3

CONTENTS

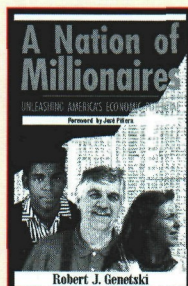
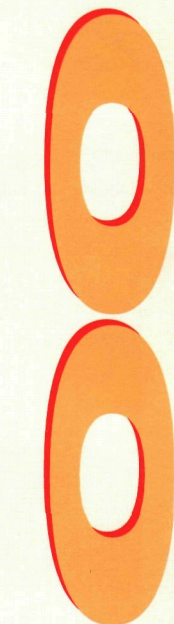
Crime	4	Privatization	10
Education	5	Regulation	11
Environment	6	Taxes	12
Health Care	7	Technology	13
Law	8	Welfare	14

Publications available from The Heartland Institute

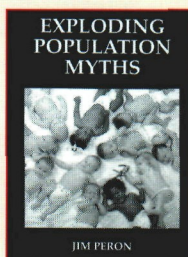
Just call 312/377-4000, or order
online at www.heartland.org



**Antitrust After
Microsoft**
\$8.95 paperback
176 pages



**A Nation of
Millionaires**
\$8.95 paperback
168 pages



**Exploding
Population Myths**
\$4.95 paperback
80 pages



News from the *Heartland*

by Diane Carol Bast
Editor

Every summer, Heartland is presented with three great opportunities to meet face to face with hundreds of *Intellectual Ammunition's* biggest fans, at the annual conventions of the American Legislative Exchange Council (ALEC), National Conference of State Legislatures (NCSL), and Council of State Governments.

This summer was no exception, as several Heartland staffers took to the road in August for the first two meetings. While I was not among them, they've asked me to pass along their appreciation for your kind words about Heartland's work.

Both events gave us the opportunity to hand out complimentary copies of several Heartland publications and over 1,000 Heartland computer memo-holders... a very popular item in an exhibit hall full of giveaways!

We also signed up 16 new members of our Legislative Advisory Board; they're highlighted in the list that begins on page 20. If you're not already a member, please sign up using the form that appears on page 9, or contact Public Affairs Director Greg Lackner at 312/377-4000, email lackner@heartland.org.

THE BIG APPLE

On July 31-August 3, Heartland President Joseph Bast, Publisher Nikki Saret, and Director of Operations Latreece Vankinscott staffed the

Heartland exhibit at ALEC's annual meeting in New York City.

On August 1, Bast spoke to conference attendees on the trend toward federal preemption of the states' traditional role in overseeing K-12 education policy. About 80 state legislators attended the panel discussion, which also addressed federal preemption in health care regulation and tort reform.

That evening, Heartland cohosted with International Truck & Engine Corp. a free cocktail reception; about 100 state legislators attended. **Mississippi State Representative Jim Ellington** won a leather jacket raffled off by ITEC; **Sue Boyer**, wife of **Kentucky Representative Jim Boyer**, won a basket of fine chocolates raffled off by Heartland.

WARM (LITERALLY!) TEXAS WELCOME

On August 12-15, Saret and Public Affairs Greg Lackner were in San Antonio, Texas to staff Heartland's exhibit at NCSL's annual meeting. Again with International Truck & Engine Corp., we cohosted an ice cream social on August 14 and raffled off two great prizes—how's that for taking advantage of 100° temperatures?

Jonlynn Reeves, daughter of **Mississippi State Representative John Reeves**, drew the name of **Lori Corley**, administrative assistant for the West Virginia House of Delegates. **Dylan Rich**, son of legislative staffer **Heather Moss** from Washington State, drew the name of **Angela Hillard**... the babysitter for Reeves' children!

MANY THANKS

Our thanks to all of you who stopped at the exhibit and shared with us your comments and criticisms... not only on Heartland and its work, but also on the "hot topics" that most affect you and your constituents. We'll continue to work to earn your confidence and address the issues of greatest importance to you.

OOPS!

As many of you noticed, we had a little printing problem with the July/August issue. Specifically, two pages from the May/June issue—Morgan Reynolds' crime column and a page in the contacts list that appears at the end of the issue—were duplicated in July/August. We're back on track with this issue and appreciate your understanding. 

Intellectual Ammunition (ISSN 1077-8861) is published bimonthly by The Heartland Institute, a nonprofit, nonpartisan research and education organization. Nothing in *Intellectual Ammunition* should be construed as necessarily reflecting the views of The Heartland Institute or as an attempt to aid or hinder the passage of any legislation. Reprint permission is granted, provided sufficient credit is given to The Heartland Institute. Annual subscription with Heartland membership \$49.00; single issue \$9.00. POSTMASTER: Send address changes to The Heartland Institute, 19 South LaSalle, Suite 903, Chicago, IL 60603; telephone 312/377-4000, fax 312/377-5000.

President: Joseph L. Bast ❖ **Publisher:** Nikki Saret ❖ **Editor:** Diane Carol Bast

Art Director: Kevin M. Fitzgerald ❖ **Graphic Design:** Jennifer Beranek

Contributing Editors: *Crime* Morgan Reynolds, National Center for Policy Analysis; *Education* George Clowes, The Heartland Institute; *Environment* David Riggs, Competitive Enterprise Institute; *Health Care* Twila Brase, Citizens' Council on Health Care; *Law* John E. Kramer, Institute for Justice; *Politics* Ron Faucheaux; *Privatization* Robin Johnson, Reason Public Policy Institute; *Regulation* Susan E. Dudley, Mercatus Center; *Taxes* Bill Ahern, Tax Foundation; *Technology* Bartlett Cleland, Institute for Policy Innovation.

continued from page 1

sents the largest government-imposed increase in the price of a legal product in the history of the United States.

Using lawsuits to raise revenue is far easier than raising taxes the old-fashioned way. This method bypasses the need for representatives or the voters to approve the tax. Those "messy" restrictions, such as requiring the revenue measure to originate in the House of Representatives, can also be avoided.

The tobacco suits were vehicles for changing the law, not following established law. . . . These lawsuits represent the antithesis of the rule of law: namely, the end justifies the means.

The myth told by proponents of the lawsuits is that the new revenue involves the payment of damages. From a legal perspective, compensatory damages would involve primarily retroactive relief (payment for past harm) plus limited prospective relief (payment for future harm caused by past wrongdoing).

The tobacco settlement involves neither: There are no damages for past losses. Indeed, Professor Kip Viscusi of Harvard Law School has proved that cigarette tax collections more than offset the cost to government for treating tobacco-related illnesses.

The tobacco deal instead requires the industry to pay a new revenue stream based on current government costs, with no credit for existing tax collections, and the revenue stream continues forever without regard to the good or bad conduct of the industry.

These lawsuits also invade the appropriations process. This intrusion has sparked some battles in states where governors and legislators want to control the spending of the new tobacco revenue. The most egregious example, of course, involves the billions of dollars to be paid to attorneys without a legislative appropriation.

A FAMILIAR TACTIC

At bottom, these lawsuits involve the familiar activist tactic of using the judiciary to change the law. Three years ago, the lead lawyer in the

Mississippi tobacco suit said at a Federalist Society conference that, in the light of the misconduct of the tobacco industry, "it really doesn't matter what legal theory you use." His point was simple: The tobacco suits were vehicles for *changing* the law, not *following* established law.

The attorneys general used novel legal theories and crafted their complaints to avoid the traditional remedy of subrogation, which allows defendants powerful arguments of assumption of risk, contributory negligence, and statutes of limitation. These lawsuits were filed *en masse* to politicize the judicial process while a public relations campaign said it was all about kids. These lawsuits represent the antithesis of the rule of law: namely, the end justifies the means.

HOW TO STOP IT?

For legislators who want to curb this new form of lawsuit abuse, I offer four ideas.

First, there needs to be a legislative ban on government suits against industries for indirect harm, except for the traditional remedy of subrogation. If governments sue industries for harm suffered by citizens who received government benefits, then the industries should be able to assert well-established defenses of assumption of risk, contributory negligence, and statutes of limitation. Governments should not have rights to sue that are superior to the rights of the citizens on whose behalf the lawsuits are filed.

Second, there needs to be either a ban or tight regulation of contingent fee contracts for government attorneys. For a long time, contingent fee contracts were considered unethical, but that view gave way to the need for poor persons with valid claims to have access to the legal system. Governments do not have this problem.

Governments are wealthy, because they have the power to tax and condemn. Governments also control access to the legal system.

If you do not ban these arrangements in the context of government suits, you should at least consider legislative restrictions: caps on hourly rates or percentages; competitive bidding; detailed time and expense record-keeping; review by legislative committee of contracts with attorneys; and limits on campaign contributions by attorneys to government officials.

Third, government suits against industries should be subject to fair venue rules. There was a fair amount of forum-shopping in the tobacco suits, and I suspect it is occurring in the gun suits. The usual presumption in favor of the plaintiff's choice is unfair to an out-of-state corporation, especially when the government plaintiff actually controls the entire court system. The defendants in

these suits should have an equal say in the choice of forum.

Fourth, these suits require special rules for appeals. In a bet-your-industry lawsuit, it could be impossible for the defendants to post an appeal bond. This problem has been a driving force in settlements of dubious lawsuits. When governments pursue novel legal theories against entire industries for enormous sums of money, there needs to be a fair chance for the appellate courts to ensure that the process is fair and the law is sound.

Lawsuit abuse by governments is the most serious challenge to the rule of law today. The free market and the cause of human liberty cannot survive much more of this litigation madness.

CONCLUSION

In American political thought, we have a rich history of trying to limit the power of government. Our forefathers understood the dangers of unchecked power.

The Federalists believed a federal government of enumerated powers with three distinct and competing branches would preserve our liberty, while Thomas Jefferson and his fellow Antifederalists insisted that a Bill of Rights was needed to restrain a powerful central government. Fortunately, we inherited gifts from both groups.

We should follow that tradition by prohibiting governments from using civil lawsuits for abuses against our citizens. For two years, I resisted intense pressure to join the tobacco litigation, because I am firmly committed to the rule of law and limited government. Lawsuit abuse by governments is the most serious challenge to the rule of law today. The free market and the cause of human liberty cannot survive much more of this litigation madness.

Bill Pryor is attorney general for the State of Alabama. This essay is derived from remarks he delivered to a meeting of the American Legislative Exchange Council in August 1999.

Crime

Morgan Reynolds

Morgan Reynolds is director of the Criminal Justice Center at the National Center for Policy Analysis.

Hate Crimes and Class Legislation

FOR MORE INFORMATION...

Testimony of Jeanine Ferris Pirro. The Westchester, New York District Attorney supports federal hate crimes legislation. (U.S. Senate Judiciary Committee, May 1999, 2pp.)



<http://www.heartland.org/pdf/13002d.pdf>

All but seven states have passed hate crime legislation. These laws boost criminal penalties if prosecutors can prove that the defendant chose to commit the crime against the victim because of a specified prejudice or bias by the defendant. These laws select certain prejudices to condemn and thereby promise enhanced protection for certain groups.

Which groups? The politically powerful, by definition. The Texas legislature, for example, recently strengthened its 1993 bias law by singling out six characteristics—no more, no less—that warrant additional prison time. More protection for homosexuals but not adulterers, more for the disabled and religious but not the bald and stout.

Is it all as silly as it seems? The only good argument for hate crime laws is that criminal law must recognize the added harm suffered by minorities and society when victims are attacked because of race or other group characteristics. Crimes of hate must be punished more vigorously to “protect our communities from the terror of hatred and bigotry,” as Texas State Senator Rodney Ellis put it.

SUBVERTING EQUAL JUSTICE

On the other hand, the most serious objection to hate crime statutes is that they subvert the ideal of equal justice. The blindfold and scales of Justitia symbolize the highest standards of law: impartiality, generality, and uniformity. In our diverse society, only compelling evidence should allow Justitia to lift her blindfold and treat otherwise-identical crimes and victims differently because a particular prejudice was a motive in committing the crime. Since race-, class-, and gender-conscious policies are more likely to divide than unite, the proponents have a heavy burden of proof in demonstrating the efficacy of bias laws.

They have not met the burden. For all the hubbub, bias crimes are a small and declining share of all crimes. FBI crime data show that only one in 1,000 murders, one in 15,000 rapes, one in 3,000 robberies, and one in 1,300 felony assaults are motivated by bias. And claims that hate crimes are on the rise are false. If a principal aim of hate law has been to spread public awareness of special vulnerabilities, current data fail to establish such weaknesses.

Are bias crimes particularly heinous compared to identical crimes not motivated by bias? Not to Larry Elder, the KABC Los Angeles radio talk show host. “By all means,” he writes, “we should prosecute bad conduct. But if I’m standing at an ATM machine and a Ku Klux Klansman hits me in the back of the head with a brick, the operative word is not ‘Klansman.’ It is ‘brick.’”

In ancient Greece, Thucydides stated, “Our laws secure equal justice for all,” and Thomas Jefferson wrote in our Declaration of Independence, “All Men are created equal.” Andrew Jackson declared that when the laws undertake to add “artificial distinctions,” then we have a right to complain of the injustice of government. I guess we can dismiss these ideals because they were enunciated by dead white males who had been slave holders.

Hate crime legislation trades the enlightened ideal of equality before the law for the divisiveness of identity or class politics: All men are equal but some are more equal than others. Down this road, of course, ultimately lies disaster for a multiethnic society.

Yet many policies have proceeded recklessly down this path. Thanks to affirmative action, for example, one-time champions of non-discrimination and merit become champions of “good racism.” As Arthur Shenfield put it, “The intel-

Hate crime legislation trades the enlightened ideal of equality before the law for the divisiveness of identity or class politics: All men are equal but some are more equal than others.

lectual confusion of our times is indeed so remarkable that these measures are thought to be not merely consistent with equality before the law, but necessary to make it a reality.”

Media coverage gives the impression bias crimes are all about rampaging white supremacists and anti-gay bigots. Colin Ferguson, the Long Island Railroad commuter train mass murderer, and many other cases show otherwise. In fact, blacks are two or three times as likely to commit crimes of racial bias as whites, though doubtless even this fact will be fodder for those who see a racist criminal justice system in need of hate crime penalties.

In 1963 President Kennedy said, “Race has no place in American life or law.” Today, the bigotry-is-everywhere crowd pushes more and more class legislation. Opponents are smeared as racists and homophobes and the *e pluribus unum* color-blind society sails from view. Sad, isn’t it?

At its annual convention in July, the National Education Association approved a resolution declaring its opposition to "federal requirements to make significant decisions about schools, teachers, or children based primarily on test scores." The union also voted to support legislation that would allow parents to let their children boycott standardized tests.

Although various speakers promoted the idea of using "assessments through multiple measures," Oakland algebra teacher Judi Hirsch cut to the chase with her message to the assembled teachers: "If you want to know how your child is doing, you don't wait seven months to get the results of a standardized test," she declared. "You ask your child's teacher."

The NEA's position fails to recognize that the main reason lawmakers have turned to standardized testing for tracking student achievement is because the grades teachers assign to student work are unreliable.

Lawmakers have turned to standardized testing for tracking student achievement . . . because the grades teachers assign to student work are unreliable.

"Grade inflation is particularly extensive in high schools with a high percentage of disadvantaged students," SchoolMatch Advisory Board Chairman M. Donald Thomas recently told a national audience of school administrators. "This indicates clearly that expectations for students are very low, and standards do not match those of testing agencies."

ALASKA

After seeing disappointing results from the high school graduation exam last year, Alaska legislators recently approved a bill to delay from 2002 to 2004 the requirement that students pass the test to graduate.

Although 75 percent of high school sophomores passed the reading test, only 48 percent passed the writing test and just 33 percent passed the math test. This year, math scores were better, but not reading and writing. Sixty-six percent of sophomores passed in reading, 46 percent in writing, and 43 percent in math.

CALIFORNIA

Even though the California State Board of Education in June lowered the bar for passing the state's new high-stakes high school exit exam from a C grade to a D grade, more than half of the state's students still failed the test.

If the state board had accepted the recommendations of a standards panel to use the C grade/70 percent cutoff, three out of four students would have failed math and one out of two would have failed English.

With the D grade/60 percent cutoff, less than 45 percent of the state's freshmen scored high enough to get a diploma in 2004.

KENTUCKY

Instead of grading student performance against a set of predetermined academic standards, the Kentucky State Board of Education in June approved grading student performance on a curve. The percentage of students classified as proficient jumped from 15 to 37 percent for elementary schools, from 13 to 34 percent for middle schools, and from 21 to 29 percent for high schools.

NEW YORK

A month after school superintendents urged the state Board of Regents to keep the passing grade on the Regents tests at 55 until 2007, educators found the state was adjusting raw test scores on a grading curve, making it even easier for students to achieve a passing grade.

In the recent biology/living environment exam, for example, students needed to answer only 33 percent of the test material correctly to achieve a score of 55. Answering 46 percent of the material correctly would bring a student's score up to 65, which is what the passing grade was until 1996.

OHIO

A few years ago, Ohio lawmakers approved a "reading guarantee" that required school districts, effective next year, to hold back fourth-graders who hadn't passed the state proficiency test in reading. But for the past four years, the percentage of Ohio fourth-graders who passed the reading test has fallen from 68 percent in 1998 to 57 percent this year.

Faced with the prospect of having 40 percent of fourth-graders repeating the grade, the legislature abandoned the reading guarantee and allowed social promotion to continue.

WISCONSIN

Only two out of 25 students in sixth-, seventh-, or ninth-grade classes are proficient or better in math, according to the first results from the Milwaukee Public Schools' expanded program of standardized testing. Less than one-third of ninth-graders can read at a proficient or better level, with a typical ninth-grader being two years behind in reading.

Education

George A. Clowes

George A. Clowes is managing editor of *School Reform News*, a publication of The Heartland Institute.

Standardized Tests Reveal Grading Gap

FOR MORE INFORMATION...

Why Testing Experts Hate Testing.

Educators oppose standardized testing because they believe testing narrows the curriculum, attacks true learning, and is unfair to minorities. Upon examination, every one of these assertions is shown to be of dubious merit. (Fordham Foundation, January 1999)



<http://www.heartland.org/pdf/21824g.pdf>

<http://www.heartland.org/pdf/21824h.pdf>
<http://www.heartland.org/pdf/21824i.pdf>

Environment

James M. Taylor

James M. Taylor is managing editor of *Environment & Climate News*, a publication of The Heartland Institute.

Global Warming and the Anti-Technology Movement

FOR MORE INFORMATION...

Greenhouse Policy Without Regrets: A Free-Market Approach. Because man's effect on his climate is not yet known, global warming policy should, first of all, do no harm. Elimination of wasteful and waste-promoting government policies can still make greenhouse reduction easier in the long term. (Competitive Enterprise Institute, July 2000)

 <http://www.heartland.org/pdf/2329fd.pdf>
<http://www.heartland.org/pdf/2329fe.pdf>
<http://www.heartland.org/pdf/2329ff.pdf>

What if mankind developed a simple, economically efficient method of sequestering greenhouse emissions? Removing man-made emissions from the atmosphere without harming the world's economies would be an ideal solution, right? Not so, according to many global warming advocates.

Oceans, forests, soils, assorted plant life, and even sand and rocks tend to absorb carbon dioxide from the atmosphere, reducing the effects of mankind's greenhouse gas emissions. According to studies by Princeton University researcher Stephen Pacala, America's forests, crops, and rivers alone absorb up to half of our nation's greenhouse emissions. Moreover, factoring in the rest of North America, our continent's biosphere absorbs roughly three-fourths of our greenhouse emissions. Through the use of modern technology, it may be possible to sequester most or all of the remaining CO₂ emissions.

During the Clinton administration, Department of Energy Secretary Bill Richardson proposed carbon sequestration as a viable strate-

Removing man-made emissions from the atmosphere without harming the world's economies would be an ideal solution, right? Not so, according to many global warming advocates.

gy to combat global warming. The Energy Department is spending \$29 million this year to study sequestration, and is asking for additional funds in the years to come.

How would sequestration be accomplished? Doug Carter, who directs the Energy Department's Office of Planning and Environmental Analysis, proposes numerous options. According to Carter, the following alternatives are under study as viable solutions:

- **Oil fields:** Oil workers frequently inject carbon dioxide into oil wells to aid oil recovery. The carbon dioxide is injected under oil reservoirs between layers of rock, forcing the oil above it to rise toward the surface. Currently, oil workers seek to recover the most oil with the least amount of carbon dioxide. "We'd want to completely flip that around," states Sally Benson, a researcher at the Lawrence Berkeley National Laboratory.

- **Soil:** Plants absorb carbon dioxide from the

air and pass it into the soil through their root systems. In agricultural areas, much of the carbon dioxide is later released into the air when farmers plow their fields. The agricultural and energy industries have devised a farming style that requires less plowing, resulting in additional carbon sequestration.

- **Coal seams:** Much like the case with oil fields, injection of carbon dioxide into coal seams can assist recovery of deep coal deposits. Coal sequestration produces additional energy while reducing atmospheric CO₂.

- **Sandstone:** Natural gas producers in the North Sea off Norway currently extract carbon dioxide from the natural gas they recover and, instead of letting it escape into the air, inject it into porous sandstone 3,000 feet below the Earth's surface. Carbon dioxide can similarly be injected into briny water deposits 2,000 feet below the Earth's surface. Either strategy sequesters the greenhouse gas underground for eons.

So, what's the catch? The catch is global warming is the Rosetta stone of the anti-West, anti-technology, anti-globalization movement. Observes Christopher Dickey of *Newsweek*, "Without global warming, the growing protest movement against 'globalization' would be even less coherent than it already is. Because this slow-motion apocalypse can be traced to enormous multinational corporations, who market the fossil fuels that generate carbon dioxide, it is a perfect unifying force for global protest. And activists know it."

Prior to the global warming scare, notes prominent American environmentalist Jeremy Rifkin, "environmental issues, and economic and social issues, could for the most part be addressed regionally and locally. Here we had a situation where the whole globe was affected."

For as long as global warming is seen as a serious problem whose solution mandates the curtailment of industrial activity, the anti-West, anti-technology, anti-globalization movement has a meal ticket for its ulterior motives. Feasible carbon sequestration as a solution to global warming destroys that meal ticket.

"Carbon sequestration could offer one of the best options for reducing the buildup of greenhouse gases, not only in this country, but in China, India, and elsewhere," observed former Secretary Richardson. But in a joint statement, Greenpeace and the World Wildlife Fund opposed this promising solution as a potential excuse for Western nations to preserve our industrial society.

"Sucking carbon out of the atmosphere is not the same as preventing it permanently from leaving the exhaust pipe or power plant," stated WWF climate change director Jennifer Morgan.

"Every ton of sequestered carbon that is allowed . . . would allow an additional ton of fossil fuel use," added Greenpeace climate change director Bill Hare.



The freedom and independent health care decision-making of millions of individual citizens and families hinges on whether the Patients' Bill of Rights becomes law.

Before the President signs the bill, he should determine whether this bill is good for patients in the long run. French economist Frédéric Bastiat wrote long ago that policy-makers should consider not only what is seen (in this case, federally required access to specialists and a right to sue HMOs), but also what is unseen. Specifically, leaders and lawmakers should look far into the future to be sure the proposed legislation will not dismantle the basic rights and freedoms of citizens.

KEEP IN MIND

Several points worth considering about patients' right include:

- **Patients want freedom to access health care, not the right to sue for it.** Additional litigious rights will not bring the immediate relief patients are looking for and need. Lawsuits require months, sometimes years, of litigious process—another mind-numbing maze of paperwork and

Patients should be empowered to leave the clutches of managed care, and HMOs should be forced to meet the needs of patients or die from disinterest and disuse.

procedure for already sick and vulnerable patients stuck in bureaucratic HMOs. Lawyers may continue to argue—and get paid—well beyond the death of the patient, or the point of irreparable damage to the patient's physical or mental health. Federal authorization of more lawsuits is not the answer for patients caught in the restrictive web of managed care.

- **It is the HMO system that is the problem, not the processes of the system.** As the Supreme Court recently noted in *Herdich v. Pegram*, the HMO system is working as intended. No amount of legislative tinkering and federal oversight will eliminate the root of patient dissatisfaction, which is managed care itself. Patients will continue to be outraged with management techniques—including litigation—that delay or deny access to health care they choose.
- **If citizens owned individual insurance policies, Congress would not be asked to legislate what the market would dictate.** The competitive market would promptly and much more successfully deal with all the issues Congress has tried to address. For example, even without personal

ownership of insurance, some insurers and HMOs have already softened management tactics to attract wary employers.

- **Increasing federal oversight will not help patients receive care faster, and will increase the overall cost of health care.** Bureaucratic processes are notoriously slow in response to citizen complaints. In addition, federal legislation leads to increased federal involvement in the day-to-day decisions of health care practitioners and their patients. Additional laws and oversight mean more hoops to jump through, greater regulatory expenses, more paperwork, growth in government, and a need for more taxpayer dollars to support the system.
- **To solve our health care problems, patients must become customers, not cogs, of the system.** Health care professionals and facilities ultimately work to please those who pay them for their services—in most cases, employers and government officials. Patients, who no longer pay directly for services, are stuck in the middle of powerful entities that argue over cost while they wait for care.

PATIENT-FRIENDLY APPROACH

Several policy changes would encourage a market-based, patient-friendly approach to health care while preventing a more complete federal takeover of the health care system:

- Eliminate tax deductibility for employer-sponsored insurance, or extend tax deductibility to all citizens regardless of employment status.
- Provide tax credits for the purchase of health insurance.
- Encourage personal and medical savings accounts.
- Create a specific federal tax deduction for those providing charitable health care services, or donations to health care charity organizations.

Returning to a cash economy in health care will provide patients with timely care that meets their individual needs. Patient financial responsibility for routine and minor health care expenses, bolstered by an insurance policy against medical catastrophe, will permit patients, doctors, and hospitals to work together toward personalized care within the market-based boundaries of choice, negotiation, competition, and compensation.

Any legislation that expands centralized federal control over the American health care system will result in loss of individual freedoms. In health care, freedom can mean the difference between life and death.

The President's decision should not sustain managed care as the nation's dominant health care system. Rather, he should move to enable patient-centered market competition. Patients should be empowered to leave the clutches of managed care, and HMOs should be forced to meet the needs of patients or die from disinterest and disuse. 

Health Care

Twila Brase

Public health nurse Twila Brase is president of Citizens' Council on Health Care.

PBOR: Band-Aid or Cure?

FOR MORE INFORMATION...

How to Cure Health Care. Nobel Prize-winning economist Milton Friedman explains how third-party payment, and the favored tax treatment thereof, have inflated the cost of health care. Short of repeal of the whole third-party payment system, he says, Medical Savings Accounts offer a solution. (Hoover Institution, 2001, 17pp.)



<http://www.heartland.org/pdf/32724y.pdf>

Law

John E. Kramer

John E. Kramer is vice president for communications with the Washington, DC-based Institute for Justice.

Toppling 21st Century Tyranny

FOR MORE INFORMATION...

Saving the Skin of Property Owners in Connecticut. The Institute for Justice explains why it has taken up the cause of property owners in New London, Connecticut's Fort Trumbull neighborhood. (Institute for Justice, December 2000, 9pp.)



<http://www.heartland.org/pdf/2366ej.pdf>

Tyranry isn't a very twenty-first century word.

Protected by our civil institutions, we think tyranny and tyrants are things of the past. At least in this country, our rights are protected.

Although unrecognized by so many, grassroots tyrannies exist across our nation. Individuals bent on greatness secure government power, then impose their vision of how things should be on those seeking merely to live good lives.

The distinction between those seeking goodness and those seeking greatness comes in the fact that individuals seeking goodness reject force. They recognize the pointlessness of forcing upon another "what is good for them."

Those bent on greatness, however, require force (typically in the form of conscription, eviction, or taxation) to achieve their ends. Moreover, their ends justify any means to achieve them; this means other people must sacrifice to achieve the great man or great woman's quest.

One might boil this down to the maxim, "The pursuit of goodness leads to greatness, but the pursuit of greatness leads to tyranny."

*The pursuit of goodness
leads to greatness,
but the pursuit of greatness
leads to tyranny.*

ABUSING EMINENT DOMAIN

The conflict between goodness and greatness is now unfolding in New London, Connecticut. There, all but one of the seven city council members have teamed up with a private development authority, the New London Development Corporation (NLDC), to impose a program of social engineering in the name of "social justice."

Their goal is to restore one of the poorest cities in Connecticut by embellishing the neighborhood around the new Pfizer headquarters. The problem, however, is that this "redevelopment" is being done at the expense of individual rights guaranteed by the U.S. and Connecticut constitutions.

Through the abuse of eminent domain—government's power to take private property for a public use—seven New London families may be evicted so the government can hand over their land to another private party to create upscale, privately owned office space and un-

specified projects.

Seven families, who want to be left alone so they may enjoy the homes and businesses they have created, stand to lose everything.

DREAM BECOMES A NIGHTMARE

Susette Kelo, a registered nurse, is one of those whose home is now threatened. Kelo purchased her dream house where the Thames River meets Long Island Sound. When she bought her home it was in sorry shape. She literally needed a hatchet to chop her way through the brush to the front door. But since then, she has restored the little Victorian home and made it a coral pink showplace. She has made it *her* home.

But the goodness she achieved may soon be bulldozed. Last year, the day before Thanksgiving, the NLDC ordered Kelo to vacate her home so it could redevelop her land.

Dr. Claire Gaudiani, NLDC president, is the driving force behind these takings. Her speeches and many interviews make apparent her aspirations to greatness. She told the American Academy of Arts and Sciences that she and its members "represent the most privileged DNA on this planet." Perhaps most tellingly, Gaudiani said, "Anything that's working in our great nation is working because somebody left skin on the sidewalk."

WHOSE SKIN IS IT?

The problem with such bold statements is that people like Gaudiani never leave behind their own skin. Always, it is the skin of those who are politically and financially powerless; those who do not represent the most privileged DNA on the planet; those who seek goodness rather than greatness.

Gaudiani is typical of those who want to impose on us all their own illusion of what is best for other people. They are abusing government's force to create private developments, rather than calling for government to fulfill its primary purpose in America: to protect the constitutional rights of its citizens.

Thankfully, in America even the "privileged DNA" must respect the rule of law. That is what protects ordinary mortals like Susette Kelo when government overreaches. Indeed, it is not just eminent domain abuse, but our system of justice itself that is on trial wherever eminent domain abuse is being challenged in court. Each of these cases spotlights that an individual's right to possess and enjoy property is secure only if everyone's right is secure.

In the end, tyranny and tyrants always fall because individuals recognize that real greatness comes from people standing up for other people's rights as if they were their own. 

Attention Elected Officials...

WE WANT YOU!



- Have your essays and news reports appear in Heartland publications
- Appear in our directory of advisors three times a year in *Intellectual Ammunition*
- Receive invitations to special advisor events at ALEC and NCSL annual conventions
- Recommend topics and documents for *PolicyFax* and *PolicyBot*

Join!!!

The Heartland Institute's
*Board of
Legislative Advisors*

Fill out the form below or
contact Greg Lackner
at 312/377-4000
email: lackner@heartland.org

The Heartland Institute
The power of ideas



YES! Please put me on Heartland's Board of Legislative Advisors.

NAME

TITLE

ADDRESS

CITY

STATE

ZIP

PHONE

EMAIL

Please mail to **The Heartland Institute**, 19 South LaSalle #903, Chicago, IL 60603 or fax back to 312/377-5000.

Privatization

Robin A. Johnson

Robin A. Johnson is director of the Privatization and Government Reform Center at the Reason Public Policy Institute.

Privatization Works for Foster Kids in Kansas

FOR MORE INFORMATION...

Child-Welfare Reform and the Role of Privatization. Why do foster-care rolls grow even as child abuse declines? Privatization of foster care and adoption will reduce these rolls. Legal, judicial, and procedural reform can reduce case-loads while not endangering children. (Reason Public Policy Foundation, October 2000, 39pp.)



<http://www.heartland.org/pdf/24183d.pdf>
<http://www.heartland.org/pdf/24184h.pdf>
<http://www.heartland.org/pdf/24184i.pdf>

It hasn't been too long ago that stories concerning foster care in the United States were filled with examples of mistreatment of children, bureaucratic bungling, and even death. Heart-wrenching stories of deprivation and abuse finally led policymakers to take action after a long period of abject neglect.

While many types of new innovations are being attempted, those that hold the most promise involve privatization of services.

In particular, several states have structured contracts with private firms to include performance incentives that limit the amount of time children spend in foster care drift. A recent review of Kansas's privatized foster care and adoption programs demonstrates that performance-based contracts can reverse the cycle of abuse and neglect, offering hope for saving many of the half-million children currently in foster care.

EARLY LEADER

After Congress enacted the Adoption and Safe Families Act of 1997, many states reformed their foster care and adoption services. However, states such as Kansas and Michigan had already put into place policies that improved their child welfare systems.

Kansas, for example, was one of the first states to move towards privatization of child welfare. In 1996, it contracted for adoption services. The state included stringent performance-based incentives that produced immediate results. In the first year of privatization, adoptions increased by 26 percent over the previous year, when the program was under state management and had no performance standards in place.

In 1997, Kansas privatized foster care and group care, a much more challenging initiative because of the large number of children involved. The contracts with private providers were also heavily laden with performance incentives designed to decrease the amount of time children spend in foster homes.

In four key areas, private providers exceeded the target levels set by the state:

- safety of the child;
- minimal number of placements;
- maintenance of family and community ties; and
- placement with a brother or sister.

Kansas officials credited privatization and performance-based contracting as keys to the improved results. An official with the Kansas Department of Social and Rehabilitative Services described the "old-world" incentive as keeping beds filled, while the new system encouraged "permanence."

RECENT IMPROVEMENTS

An internal review of Kansas's foster care and adoption programs issued in June 2001

demonstrated continued improvement and highlighted areas where providers can do even better. The report was mandated by the federal government and is aimed at measuring how well children move through the foster care system.

The Department of Social and Rehabilitation Services (SRS) conducted the review. According to SRS Secretary Janet Schalansky, the findings show "Kansas is moving in the right direction on child welfare issues."

Among the areas where performance has improved are better data collection, training, and communication, and fewer children in group-home settings. Fewer children are entering foster care under privatization, and those that do have shorter stays. In addition, the state is meeting federal standards for children exiting foster care within 24 months.

While the state fell short of meeting a feder-

While many types of new innovations [in foster care] are being attempted, those that hold the most promise involve privatization of services.

al standard that more children exit foster care within 12 months, Schalansky said many of the remaining cases are tougher to place. The issue took on added importance for states in light of a federal court ruling in June that allows foster children to sue states for violating their civil rights if they are not placed quickly enough in permanent homes.

The internal review of Kansas's program also recommended more training for foster parents and entry-level social workers, more involvement of foster parents in decision-making processes, and better access to information and data. A second phase of the study is underway with federal officials reviewing 50 cases randomly selected in three counties.

HOPE FOR THE FUTURE

These reforms offer lessons for other states and hold the promise of improving the lives of thousands of children. Privatization of child welfare services, combined with strict performance-based incentives, can help produce positive stories of children overcoming the odds and reaching their full potential. 

No sooner had Congress passed a resolution disapproving the ergonomics regulation issued by the Occupational Safety and Health Administration (OSHA) during the last days of the Clinton administration, than it began demanding OSHA craft another rulemaking expeditiously.

The Department of Labor has resisted committing to deadlines for new rulemaking, but it has begun to solicit public views on how best to define and address ergonomics injuries.

The contentious debate over the ergonomics rule, and Congress's subsequent vote to overturn it, have polarized organized labor and management. Such polarized views are unfortunate, since both employers and employees have an interest in improving workplace conditions and increasing workplace safety.

The costs associated with ergonomics injuries are real. Since private-sector businesses bear most of these costs, they face strong incentives to provide workplace protection against musculo-skeletal disorder (MSD) hazards. Ergonomics injuries, such as carpal tunnel syndrome, lower back pain, and tennis elbow, have declined by 4 percent per year since 1994, as employers and employees have become increasingly aware of causes and possible preventive measures.

The reason ergonomics injuries persist is not lack of motivation on the part of employers and employees, but lack of knowledge on causation and viable, cost-effective solutions. As OSHA, NIOSH, and the National Academy of Sciences have underscored, a complex interaction of many different factors—related to individual physical and psychological characteristics, as well as work environment—contributes to ergonomics injuries.

ONE-SIZE-FITS-ALL WON'T HELP

The one-size-fits-all standard that Congress overturned did not recognize these fundamental facts. As a result, the measure would not likely have improved worker safety. It merely straight-jacketed employers with procedural requirements and a hierarchy of control measures that would have discouraged individual responsibility and hindered development of creative solutions to these complex problems.

Now, forbidden by the Congressional Review Act from issuing a rule "substantially similar" to the one Congress overturned, yet under pressure to do something to address ergonomics injuries, OSHA seems to be asking the right questions. It held a series of public hearings in July, and solicited oral and written comments on three questions.

First, OSHA asked, "Can we develop a definition of ergonomics injuries that employers and employees can understand and apply?" Rather than trying to define the term broadly, a sounder approach would focus on specific disorders. The causes, symptoms, and interventions for carpal

tunnel syndrome, for example, are very different than those for lower back pain, white finger, or tendinitis. Nursing home workers face different risks than do meat packers or office workers.

OSHA also has asked how to tailor a regulatory response to injuries that may be due to a combination of work and non-work factors. The agency should be careful not to inhibit the ability of employers and employees to decide among themselves how to help prevent injuries. Employers may be in a better position to know what interventions are available for a particular job and injury, and employees will usually have more information on the cause and nature of their injury, whether it is work or non-work related, and what seems to aggravate or ameliorate it.

Finally, OSHA has asked what approaches it should take to address workplace ergonomics injuries most effectively. First, because lack of information explains the continued presence of ergonomics injuries, the Department of Labor, along with the National Institutes of Health, should facilitate continued research to improve our understanding of the causes and remedies for these injuries.

Any standards that lock in specific practices or assumptions will hinder innovative and improved methods of addressing the very real problem of ergonomics injuries in the workplace.

OSHA should also tailor its actions to specific categories of injuries, in different industries or job categories. By OSHA's analysis, only 10 of the 300 industry segments covered by the overturned rule would have received 65 percent of its estimated net benefits, and many industry segments would have borne net costs. Some injuries or industries may benefit from general guidelines, others from technical assistance or consultations, and still others from a cost-effective regulatory approach.

In any action, Secretary of Labor Chao and Congress should recognize that flexibility is key. Science and our experience in this area are continually improving. Any standards that lock in specific practices or assumptions will hinder innovative and improved methods of addressing the very real problem of ergonomics injuries in the workplace. Legislative and regulatory actions must be able to adapt to the changing state of knowledge about ergonomics injuries, what causes them, and how best to address them.

Regulation

Susan E. Dudley

Susan E. Dudley directs the Public Interest Comment and Regulatory Accounting projects of the Regulatory Studies Program of the Mercatus Center at George Mason University.

Ergonomics Revisited

FOR MORE INFORMATION...

Public Interest Comment: The Occupational Safety and Health Administration's Proposed Ergonomics Program Standard. Rather than mandate that all workplaces adopt rules not yet proven effective in the war against workplace ergonomics injuries, OSHA should facilitate continued research and disseminate the results of that research and experience to employers. (Mercatus Center Regulatory Studies Program, February 2000, 33pp.)



<http://www.heartland.org/pdf/22283a.pdf>

<http://www.heartland.org/pdf/22284e.pdf>

<http://www.heartland.org/pdf/22284f.pdf>

Taxes

Bill Ahern

Bill Ahern is communications director of the Tax Foundation.

Who Benefits from Feds' Tax-and-Spending Policies?

FOR MORE INFORMATION...

The Economic and Budgetary Effects of President Bush's Tax Relief Plan.

Dynamic revenue analysis shows that the Bush tax plan would raise disposable incomes, allow the national debt to pay itself off, "cost" far less than thought, and help save Social Security. (The Heritage Foundation, February 2001, 12pp.)



<http://www.heartland.org/pdf/80364p.pdf>

The federal tax burden falls much more heavily on some states than others, according to Tax Foundation senior economist Scott Moody. Comparing federal tax burden by state with the Census Bureau's year 2000 data on federal expenditures by state, Moody has identified the winners and losers in Uncle Sam's tax and spending roulette.

According to Moody's analysis, taxpayers in New Mexico benefitted the most from the give-and-take with Uncle Sam. Residents of the Land of Enchantment received \$2.03 in federal outlays for every \$1.00 they paid in federal taxes. Uncle Sam spent \$1.86 in North Dakota for each tax dollar, \$1.78 in Mississippi, and \$1.75 in West Virginia. Though not comparable as a state, the District of Columbia is by far the biggest beneficiary of federal spending: In 2000 it received \$6.49 in federal outlays for every dollar its taxpayers sent to the U.S. Treasury.

Factors influencing the shifting of federal dollars include the location of people who receive Social Security, Medicare, and other substantial federal entitlements, the location of federal employees, federal procurement decisions, and grants to state and local governments.

If some states are beneficiaries, receiving more than they send in, then naturally some states must be benefactors, where so much is collected in fed-

eral taxes that any federal largesse they receive is overwhelmed. With an extremely high FY 2000 federal tax burden per capita (164 percent of the national average), even above-average federal spending (102 percent of the national average) couldn't prevent Connecticut from having the lowest federal spending-to-tax ratio (0.62). Connecticut receives only 62¢ in federal spending for every dollar its taxpayers send to Washington. Taxpayers in New Jersey (66¢), Nevada (69¢), New Hampshire (71¢), and Illinois (74¢) are similarly burdened.

THE MORE THINGS CHANGE...

The accompanying table shows which states' ratios rose or fell between 1990 and 2000. The state that raised its ratio the most is Alaska, where federal spending rose from \$1.20 to \$1.68 for each dollar in taxes. This 48¢ increase over the decade of the 1990s beat out Hawaii, where federal spending increased 43¢ per dollar of tax, West Virginia (36¢), North Dakota (34¢), Oklahoma (22¢), and Vermont (21¢).

States that have not fared so well include Colorado, Utah, Massachusetts, and Connecticut. Of these, Colorado saw the largest decline, with its federal spending-to-tax ratio falling from \$1.16 in FY 1990 to 85¢ in FY 2000.

Federal Spending by State per Tax Dollar Sent to Washington FY 1990 and 2000

	Expenditures per Dollar of Taxes		Ranking	
	FY 1990	FY 2000	FY 1990	FY 2000
Total	\$1.00	1.00	—	—
Alabama	1.43	1.54	6	8
Alaska	1.20	1.68	20	5
Arizona	1.25	1.18	16	22
Arkansas	1.31	1.38	12	14
California	.89	.86	38	40
Colorado	1.16	.85	21	41
Connecticut	.78	.62	45	50
Delaware	.75	.84	48	42
Florida	.96	1.00	34	31
Georgia	.94	.99	36	32
Hawaii	1.13	1.56	23	7
Idaho	1.28	1.30	14	17
Illinois	.75	.74	47	46
Indiana	.88	.92	39	36
Iowa	1.08	1.04	26	29
Kansas	1.06	1.02	29	30
Kentucky	1.27	1.41	15	12
Louisiana	1.30	1.39	13	13
Maine	1.22	1.32	19	15
Maryland	1.23	1.32	18	16
Massachusetts	1.08	.86	25	38
Michigan	.82	.81	44	44
Minnesota	.86	.76	41	45
Mississippi	1.66	1.78	2	3
Missouri	1.36	1.26	8	19
Montana	1.44	1.59	5	6
Nebraska	1.12	1.09	24	24
Nevada	.77	.69	46	48
New Hampshire	.74	.71	49	47
New Jersey	.68	.66	50	49
New Mexico	2.05	2.03	1	1
New York	.83	.86	43	39
North Carolina	.93	1.06	37	28
North Dakota	1.52	1.86	3	2
Ohio	.99	.97	30	33
Oklahoma	1.24	1.46	17	11
Oregon	.95	.93	35	35
Pennsylvania	.96	1.06	33	26
Rhode Island	1.06	1.18	28	21
South Carolina	1.32	1.27	11	18
South Dakota	1.35	1.46	9	10
Tennessee	1.14	1.20	22	20
Texas	.97	.96	31	34
Utah	1.34	1.06	10	27
Vermont	.87	1.08	40	25
Virginia	1.44	1.48	4	4
Washington	.96	.87	32	32
West Virginia	1.39	1.75	7	7
Wisconsin	.86	.83	42	42
Wyoming	1.07	1.09	27	27
District of Columbia	5.59	6.49	—	—

Source: Tax Foundation, based on federal expenditure data from the U.S. Bureau of the Census.

A tax collector in California pointed heavenward and proclaimed, "Look, up in the sky! It's a bird! It's a plane! It's . . . a taxable property!"

The not-so-far-fetched anecdote stems from a report that the Los Angeles County Assessor wants to tax orbiting satellites, particularly eight owned by Hughes. According to his theory, the satellites would be subject to his tax even if they don't pass over California (in fact, they are fixed over the equator). Moreover, he says that so long as no one else taxes them they are fair game for a state levy.

The California case epitomizes pro-tax aggression run rampant today, stretching the limits of credibility. Recently Tennessee wanted to tax J.C. Penney—not because the company had department stores located within state boundaries (it didn't), but because a handful of state residents had the retailer's credit cards. South Carolina sought to tax Toys R Us because the image of the company's mascot (essentially a trademark and an intangible property) appeared within state lines.

DRIVING THEM BATTY

The increasingly aggressive approach of states and municipalities has begun to wear on businesses. The so-called "business activity taxes" (BATs) have become a prominent concern not only for traditional companies, but also for those operating in the technology community.

BATs are imposed on the corporate income (or as franchise taxes) of businesses that presumably receive government benefits and protections from a state. In other words, a business with offices, inventory, employees, or agents within a state pays a BAT.

The crux of the BAT is the legal concept known as *nexus*, where a company has enough of a presence in a state that the latter can rightfully levy taxes. Therein lies the problem.

The current "substantial nexus" standard for BATs (more precisely, the distinct lack of a uniform standard nationwide) originates from the Commerce Clause and differs in interpretation from state to state. Unfortunately, this inconsistency often results in double taxation and costly litigation for companies, which of course increases the cost of consumer goods. Smaller companies that cannot afford to litigate wind up paying taxes they never owed.

With clear rules, a company understands when it is and is not taxed. It can develop and execute interstate business knowing that only its presence and activities within a state will incur a tax liability. This fosters a healthy business environment without the artificial market barriers that can retard economic growth. The focus is on success in the marketplace, not in a courtroom.

DIGITAL WORLD DEMANDS CLEAR RULES

In a digital world, intangible property plays an increasingly large role in the economy. If customers in your state view my Web site in another state, does that mean I have a substantial "presence" in your state? If my company's Web server is in your state, or if my email is hosted by an Internet service provider in your state, do I have a substantial "presence" in your state?

To support the continued development of the borderless marketplace, it is imperative that "bright line standards" be adopted to remove the ambiguity around the notion of substantial nexus. Because these issues derive from the Commerce Clause, the U.S. Supreme Court will ultimately rule on what test should be applied to determine the validity of a BAT.

The option least likely to impede development of the digital economy would be a "physical presence" standard: Taxation is permitted only if the company is physically present within the taxing jurisdiction. To date, the Supreme Court has never upheld a BAT where the out-of-state entity had no physical presence in the taxing state.

Companies in the technology sector . . . remain concerned about the increasingly novel and aggressive tactics of tax administrators.

Yet companies in the technology sector take little comfort in the Supreme Court's past common-sense approach. They remain concerned about the increasingly novel and aggressive tactics of tax administrators. Even as economic development officials court technology businesses to their areas, the revenue collectors claim taxes should be paid because of "ephemeral interaction" with that state or locality.

Without congressional action to set bright line standards, there will be a continued tax assault on interstate commerce, causing confusion, concern, litigation, and unjust taxation. And in an increasingly digital world, those standards should not be subject to the creative whims of an over-zealous tax collector. A company should have at least a physical presence or use some state service before it's required to submit to greater tax complexity. Clearly, the new Internet tax is upon us . . . and debate hasn't even closed on the old one.

Technology

Bartlett D. Cleland

Bartlett Cleland is director of the Center for Technology Freedom at the Institute for Policy Innovation.

Digital Future Demands Clear Rules

FOR MORE INFORMATION...

After the Net Tax Commission: The Gregg-Kohl Nexus Solution.

The Gregg-Kohl nexus clarification proposal would allow state and local governments to impose tax collection obligations on interstate vendors only when they have a "substantial physical presence" in their jurisdictions. (The Heritage Foundation, April 25, 2000, 5pp.)



<http://www.heartland.org/pdf/80841d.pdf>

Welfare

Michael B. Barkey

Michael B. Barkey is president of the Center for the Study of Compassionate Conservatism and editor of *The Next Phase of Welfare Reform* (forthcoming from the Acton Institute).

Vouchers: Faith-Based Initiative's Saving Grace

FOR MORE INFORMATION...

How Much Risk? Conservative Reaction to President Bush's Faith-Based Initiative. If government grants are to be part of a faith-based initiative, then "government officials must be unconditionally barred from influencing or dictating the form or frequency of preaching, teaching, and prayer in a faith-based grant program." (Capital Research Center, April 2001, 6pp.)



<http://www.heartland.org/pdf/92722e.pdf>

Rather than end discrimination against faith-based social service providers, as President George W. Bush's Faith-Based Initiative aimed to do, the House of Representatives passed a version of Bush's plan that reaffirms the old policy of discrimination: Government grants may go only to faith-based groups devoid of preaching, teaching, or evangelism.

Effective organizations that rely on religious conversion as an essential component of their programs, such as Prison Fellowship Ministries and Teen Challenge, remain shut out of the grant-making process.

Other organizations that do not engage in proselytizing are nevertheless required to offer a secular alternative to their faith-based programs. Seven steps in Alcoholics Anonymous' successful 12-step program allude to God's role in the recovery process. To become eligible for a federal grant, AA would have to start operating a new, five-step program devoid of God's presence.

This is not exactly the compassionate conservative vision Bush outlined on the campaign trail. So why did so many conservatives end up supporting the bill?

CLEVER LIKE A FOX

By accommodating nearly every liberal demand to scale-back and regulate direct government grants to religious charities, conservatives accomplished two things. First, the House stripped a large part of the faith component from the bill's direct grant provision, almost guaranteeing the law will not be declared unconstitutional.

More importantly, while debate focused on direct grants, the unrestricted voucher provisions of the bill slipped in under the radar screen, giving the Senate ample room to pass a bill that will strengthen faith-based charities without compromising their religious integrity or raising constitutional concerns.

No group must accept direct government grants if the strings are tied too tightly. And the way the House bill works, the strings are quite tight. Many groups will opt for less direct (and, therefore, less dangerous) support from the government in the form of a voucher.

Like food stamps, vouchers can be issued directly to individuals who redeem them for goods and services at the qualifying institution of their choice. Vouchers maintain a wall of separation between the government and the service provider, reducing the likelihood of organizational dependency or regulatory intrusion.

Few people would argue that grocery stores that accept food stamps are dependent on government, or made into a regulatory slave of the state. And the government doesn't support any particular religion through a voucher plan; it merely supports individuals in their choice of where to go for assistance.

NOT GROCERY STORES

Of course, faith-based organizations are not grocery stores. When faith-based social service providers begin to think of people in need as "consumers," and of themselves as a "business," their effectiveness may suffer.

Faith-based charities use tough love to effect change in people; they challenge people to better themselves. When the relationship between the two parties is reduced to a simple economic transaction—where the person in need is paying for services provided, and thus feels entitled to assistance with little sacrifice required on his own part—an important dynamic in the relationship is lost.

In a philanthropic equivalent to Gresham's law, bad charity can drive out good charity, as some people in need of assistance seek out the least-de-

*Government doesn't
support any particular
religion through a
voucher plan; it merely
supports individuals in
their choice of where to
go for assistance.*

manding programs available. Such a choice might make life easier for a needy person in the short-term, but it can do them a great disservice in the long-term.

WE SHALL OVERCOME

Fortunately, this is not an insurmountable obstacle: It merely requires that government officials and service providers recognize the potential problem and make funding and service decisions accordingly.

The House bill empowers cabinet secretaries to convert "some or all of the funds" earmarked for social service spending under the charitable choice provision of the 1996 welfare reform law (\$47 billion annually) into "indirect assistance"—that is, into vouchers.

Cabinet secretaries must be careful about which social services they agree to provide through vouchers. Likewise, faith-based organizations must be careful in deciding when it is appropriate to accept vouchers for participation in their programs.

Although there are uncertainties about vouchers, and although difficult choices will need to be made, Senators should vigorously defend the power of cabinet secretaries to side-step direct grants in favor of vouchers. Vouchers are the Faith-Based Initiative's saving grace.

Justice Department Should Pursue the Real Monopoly

by Lori Yaklin

The Microsoft antitrust case has occupied the attention of the Justice Department and legal system for thousands of hours and captured the attention of millions. Everyone—from talk show hosts, to political candidates, to the average guy who spends a few hours on his computer—seems to have an opinion on the case.

Their opinions are varied . . . but among education reformers, the opinion is universal: Why isn't anyone addressing a real monopoly, in fact the biggest, most powerful monopoly in the world: the government school monopoly?

If the Justice Department truly believes competition is good for consumers, it should take a good hard look at what effect the school monopoly is having on some very important customers: our children.

According to recently released National Assessment of Educational Progress (NAEP) results, 63 percent of black fourth graders, 60 percent of poor children, and 37 percent of all children in the fourth grade essentially cannot read. After increasing education spending by 72 percent (in inflation-adjusted dollars) over two decades, these are the results we get.

IT'S THE MONOPOLY, STUPID

How can this be? We have dramatically increased spending, decreased class size, increased teachers' salaries, and passed countless pieces of state and federal legislation to improve academic achievement. Do we simply have bad teachers? Dumb kids? Dumb parents? How could the problem be so widespread?

While thousands of small issues affect performance, there is one all-encompassing problem: The system is incredibly, pervasively, and fatally flawed. It is a monopoly. And we all know that a true monopoly turns out a bad product at an exorbitant price. In fact, if you have a good product at a fair price it is pretty safe to say you don't have a monopoly.

Which, of course, is why so many school reformers shake their heads in disbelief as the government goes after Microsoft—a company that turns out great products at competitive prices—and ignores a monolithic monopoly jeopardizing the very future of our country by short-changing millions of American school children.

The federal government was recently dealt a serious blow by the U.S. Court of Appeals in Washington, which overturned a lower court ruling in the antitrust case against Microsoft. The court ruled Microsoft's activities did not warrant the punishment the government sought. It also ruled, most importantly, that consumers were not harmed by Microsoft's activities.

Using that standard, there is a strong case to be made that the government education system is a far better example of an entrenched monopoly than Microsoft.

THE GOVERNMENT SCHOOL MONOPOLY

First of all, Microsoft faces stiff competition in every market it enters, from operating systems to personal finance software to office and Internet browsing software. The government education system faces little to none.

As customers want better products for lower prices, Microsoft—because of the fierce competition it faces—produces. Windows has undergone several revisions and improvements over the years, yet some applications within Windows once cost more on their own than the entire platform costs today.

Government schooling, by contrast, grows more expensive every year . . . and test scores go down. Changes in curricula seem aimed more toward social engineering or political agendas than toward student achievement.

TIME FOR A FIELD TRIP?

If the federal government really wanted to take down an insidious monopoly, it should stop bothering innovative, competitive companies and start taking a look at what the government-run education system has done to a generation of American children. Maybe the Antitrust Division should take a field trip to some of our poorest performing schools to see "consumer harm" first-hand.

The economic freedom we enjoy in virtually every other market has brought prosperity, innovation, and quality of life. Free markets work . . . but those who have a stake in protecting the

government education monopoly want us to believe K-12 education is an exception to that rule.

It is time for parents, politicians, and the press to demand action. All parents should be able to pick the best and safest school for their children: through tuition tax credits, vouchers, private scholarship tax credits, charter schools, homeschools, and public school choice.

Only when we have taken down the most entrenched monopoly of them all will we see free people in free markets creating educational excellence. 

*Only when we have taken
down the most entrenched
monopoly of them all will
we see free people in free
markets creating educa-
tional excellence.*



Lori Yaklin is executive director of the Michigan School Board Leaders Association. She can be reached at 810/658-7667 or through the group's Web site at www.msbla.org.

Who's Afraid of Pharmaceutical Advertising?

by Merrill Matthews Jr., Ph.D.

On May 17, 2001, the IPI Center for Technology Freedom of the Institute for Policy Innovation released its 155th Policy Report, "Who's Afraid of Pharmaceutical Advertising?" by IPI Visiting Scholar Merrill Matthews Jr. The full text of the 18-page report is available, in both HTML and Adobe PDF formats, on the IPI Web site at <http://www.ipi.org>.

Many health policy experts believe direct-to-consumer (DTC) advertising by pharmaceutical companies misinforms gullible consumers, encourages drug over-consumption, increases health care costs, strains doctor-patient relationships, and undermines the quality of patient care.

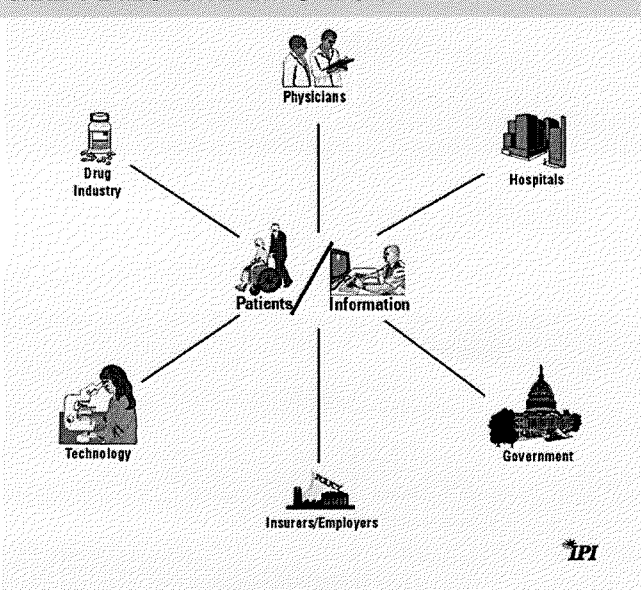
For example, the American College of Physicians and American Society of Internal Medicine (ACP-ASIM) in a joint policy statement wrote, "We are concerned that advertising will result in increased consumption of these [highly advertised] drugs; though their use may be neither appropriate nor necessary." The organizations also wrote, "Many times, physicians will give in to the demand and when they don't, often patients will 'doctor shop' until they find a physician who will prescribe the medication."

However, the above-mentioned concerns largely are misdirected. They focus on the evolving pharmaceutical marketplace when in fact the whole health care system is in transition. And direct-to-consumer pharmaceutical ads are a response to the transitional process, not the cause of it.

A HEALTH CARE SYSTEM IN TRANSITION

A generation ago, physicians were the possessors of all medical information. Patients went to physicians and accepted evaluations and diagnoses almost without question. Today, things are very different. As the illustration shows, the U.S. health care system is transitioning from a physician-directed system to a patient-directed one in which all of the components cater to the patient, rather than the physician.

PATIENT DIRECTED HEALTH CARE SYSTEM



The primary reason for the transition is the growing availability of health care information. For example, according to health care consultant Lyn Siegel, more than 50 percent of adults who go on the Web use it for health care information.

Increasingly, patients are entering the health care system armed with information—and sometimes misinformation. They may not know how to practice medicine, but many know something about their medical condition and the options available to them.

It is impossible to overstate the magnitude of this change. We haven't reached a patient-directed system yet, but we are moving—or being pulled—in that direction.

ADVERTISING PROVIDES INFORMATION PEOPLE WANT

In virtually every sector of the economy, those with products or services to sell must get information to those who will buy. Advertising is the vehicle for getting information to the intended customers. It tells prospective customers about product availability, quality, and cost—the information those prospects need in order to make comparisons.

There is a general assumption that advertising raises the costs of products. But advertising can—and should—lower costs. Holman Jenkins of the *Wall Street Journal* explains the rationale:

The media also complain about advertising as if this were an extra cost borne by [prescription] drug users. Drug companies spend on advertising because it's profitable—it pays for itself by generating additional sales, allowing development costs to be spread over a larger number of users. The average price to each user is lower.

In the absence of competition, advertising might raise prices. But in the absence of competition, vendors would likely raise prices whether they advertised or not. Advertising spurs competition, and competition keeps prices lower. Eliminating either element will drive prices up, not down.

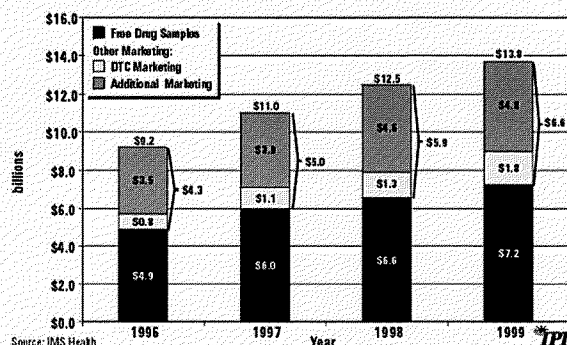
THE GROWTH OF PHARMACEUTICAL ADVERTISING

For years pharmaceutical companies have devoted most of their marketing budgets to advertising their products in professional journals, sending sales personnel to visit doctors, and providing samples that doctors then passed on to their patients—all of which is known as "professional spending." In 1999, drug companies spent only 13 percent (\$1.8 billion) of their marketing dollars on direct-to-consumer efforts and 87 percent (\$12 billion) on professional spending.

If marketing expenditures were actually driving up the cost of drugs, you would expect to see a significant increase in total marketing spending since 1997, when the FDA relaxed DTC ad rules. But as Figure 1 demonstrates, total marketing expenditures have grown at a fairly steady rate.

However, the allocation of dollars within the marketing budget is changing. As health care shifts from a physician-directed to a patient-directed system, pharmaceutical companies are changing their marketing focus from doctors to patients—at least with respect to those drugs that have a broad-based public appeal. In less than a decade, DTC advertising has increased from \$55 million (1991) to \$1.8 billion (1999), with most of the increase coming since 1997.

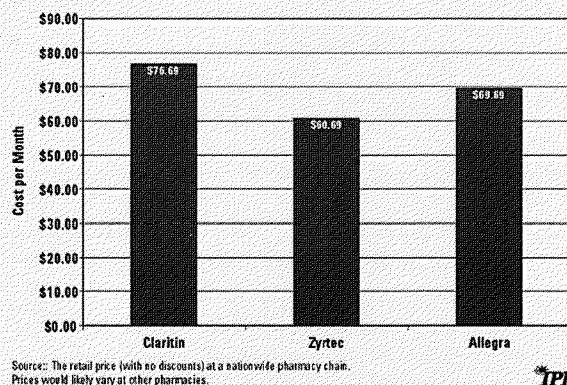
But doesn't the increase in DTC advertising drive up the cost of the advertised drugs? Not in any discernable way.

FIGURE 1 — GROWTH OF MARKETING EXPENDITURES (IN BILLIONS, 1999)

Let's look at the three leading prescription oral antihistamines: Claritin, Zyrtec, and Allegra. The amount spent advertising these drugs has varied widely. Schering-Plough spent \$137.1 million in 1999 promoting Claritin to consumers, while Pfizer spent less than half that amount promoting Zyrtec (\$57.1 million), and Aventis spent about a third as much on Allegra (\$42.8 million).

As Figure 2 shows, Claritin is a little more expensive than the other two, but its ingredients may account for the price difference. Unlike Zyrtec, Claritin is non-sedating. The ability to work, drive, or operate machinery while taking an oral antihistamine would easily be worth an extra \$16 a month to many employees.

Allegra is only \$7 a month less than Claritin, which spends about three times as much on DTC advertising. If there were a direct correlation between advertising expenditures and price, you would expect Claritin to be significantly higher-priced than the other two, and Zyrtec to be more expensive than Allegra. That's not the case.

FIGURE 2 — DOES ADVERTISING AFFECT THE RETAIL PRICE OF DRUGS?

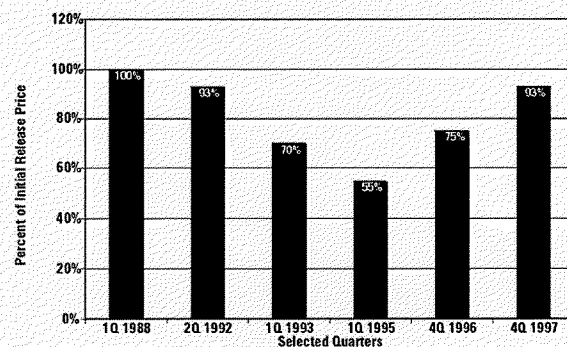
COMPETITION AMONG PRESCRIPTION DRUGS

The drug industry is very competitive. No drug company has more than 5 to 6 percent of the worldwide pharmaceutical market.

Of course, critics argue that drug patents, which prohibit generic drug manufacturers from selling an identical product for much lower prices, limit competition. This is true in the sense that a soft drink manufacturer cannot copy the ingredients of Coca-Cola and market the resulting product as "Close-a-Cola." But competition in the soft drink industry is fierce.

- Similarly, among the top 50 prescription drugs advertised DTC in 1999:
- Three (Claritin, Zyrtec, and Allegra) were oral antihistamines for allergies.
 - Four (Flonase, Nasonex, Flovent, and Nasacort) were inhaled respiratory steroids.
 - Three (Glucophage, Rezulin, and Avandia) were oral diabetes medications.
 - Three (Premarin, Cenestin, and CombiPatch) were for menopause.

The growing level of competition forces drug companies to keep prices down. Figure 3 shows the release dates (by quarter) of several antidepressants, beginning with the first in 1988. All of the subsequent antidepressants were launched at a lower price than the original drug, indicating an attempt to gain market share. Thus competition led to more choices and lower prices.

FIGURE 3 — LAUNCH PRICE OF NEW ANTIDEPRESSANTS

Source: "Pharmaceutical Prices: What's Missing in the Public Discussion," *Economic Realities in Health Care Policy*, Vol. 1, No. 3, Pfizer Inc., 2000, based on data from IMS Health.

WHAT CONSUMERS THINK OF PHARMACEUTICAL ADVERTISING

Consumers appear to like the fact that pharmaceutical companies are reaching out directly to them. And surveys indicate they make use of that information. According to a recent survey by the federal Food and Drug Administration:

- 51 percent of respondents who had seen a doctor in the last three months said a prescription drug ad caused them to look for more information about the drug.
- 72 percent rejected the notion that prescription drug advertisements made it seem that a doctor wasn't needed to decide if a drug was right for them.

CONCLUSION

Putting information in the hands of consumers who didn't have that information before is a revolutionary business—and revolutions engender change. Health care spending may go up, but there is nothing wrong with that if people are getting treated for medical conditions that had gone undiagnosed. And increased communication between the physician and patient may enhance the doctor-patient relationship.

As long as patients are insulated from the cost of medical care and doctors stand between patients and their prescriptions, the health care marketplace cannot work exactly like a normal market. But it still can be competitive, and that competition will keep prices low.

Advertising will play a major role in expanding drug company competition. We have no reason to fear advertising; what we should fear is the people who want to control it.

Physicians Overstep Their Bounds on Gun Issue

by Thomas Jackson Tidwell, MD, FACRO

Physicians have no business getting involved in debates over proposals to abolish gun ownership. Gun ownership is not a medical responsibility . . . and even if we were somehow responsible, few physicians have enough expertise in weapon ownership or use to comment effectively on the issue.

Dabbling in the political debate over guns unnecessarily endangers the medical profession. If only for strategic reasons, we should keep our mouths shut on an issue that has much more to do with political agendas and individual perceptions than the rational evaluation of statistics. To dabble there will weaken our effectiveness in other arenas where we really can have some important effect with regard to the nation's health.

In the August 2001 issue of *The Official Journal of the National Rifle Association*—to which my 70-something mother-in-law subscribes—there appeared a vicious attack upon Dr. Richard Corlin, president of the American Medical Association. The writer says not so much that Corlin is wrong in wanting doctors involved in the gun control debate, but that the NRA is going to defend itself against the AMA or whomever else it must.

Some very plausible points, based on real statistics, were made in that journal article with regard to the number of accidental deaths by firearms as opposed to the accidental deaths at the hands of physicians. The article's author reports 120,000 patient deaths every year from physicians—versus only 1,000 per year (including self-inflicted deaths) from 60 million firearms.

Moreover, the NRA points out that because of the possession of firearms as self-defense weapons, some 2.5 million lives are saved every year by citizens who are simply exercising their Second Amendment rights of gun ownership.

Of course, some of the more intellectual physicians among us can generate argument after argument disputing the NRA's claims and "exposing" holes in its reasoning. But frankly, there is no amount of reason that will overcome the emotions behind the perceived right of the people to possess firearms for self-protection.

Many Americans are already troubled enough about government, crime, and the medical profession (especially HMOs), and there is no reason to believe they will not react vigorously against our efforts to get involved in this debate. I find it very easy indeed to imagine them turning on physicians as defense-averse (or incompetent) wimps for not standing up against the govern-

ment . . . or even worse, for siding with evil and endangering the public by impeding the citizens' ability to stand up for themselves.

WHO ARE WE TO JUDGE?

As physicians—most of whom probably have never even fired a weapon—we seem ill-suited for mouthing off so "authoritatively" in this highly charged mainstream American issue. Certain physicians (a vocal minority) seem to think they are going to solve this issue for America, and they appear intensely prone to interject themselves into this huge whale of a political argument.

The medical profession has a history of doing good . . . but so does the United States of America, and that good originally started out by citizens brandishing weapons in self-defense.

As physicians, we really should just stick with medicine, and let the citizens battle it out about the gun issue.

If some physician feels he can make a valuable contribution to the debate, he ought to leave the doctor part of his name out of it. He should go out there and voice his opinion as John Q. Citizen. There is nothing about his credentials—a crutch we too often rely on when our arguments aren't strong enough to stand on their own—that is pertinent to

this political issue, and nothing that should give his opinions any more weight than the next guy's.

A vote is a vote. A bullet is a bullet. A doctor should just be a doctor, do what works and do what matters. He should tend to his own backyard and clean up the 120,000 patient deaths that occur each year, if that figure is true. And if that isn't true, then some one of us should go and refute that claim. Maybe it's only 55,000 per year, the total number lost in the Viet Nam War.

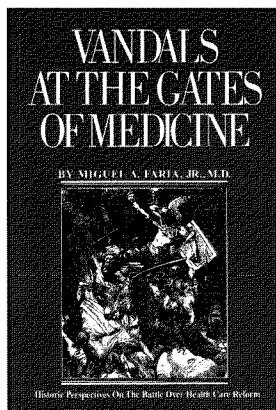
Physicians are not good politicians, not good businessmen, and not good warriors. We are immodestly extending ourselves way beyond our abilities to contribute valuably in this gun issue. Someone needs to get those among us to pipe down if they are falsely claiming to represent the medical profession, or they will hurt us all and our profession, which is ailing as it is.



Thomas Jackson Tidwell, MD, FACRO is a medical doctor and founder of The Tidwell Radiation Oncology Center. He can be reached by email at JackTidwellMD@TidwellRadiation.com.

*There is nothing
about [a physician's]
credentials . . . that is
pertinent to this political
issue, and nothing
that should give his
opinions any more weight
than the next guy's.*

Add These Timeless Resources to Your Library



Vandals At The Gates of Medicine

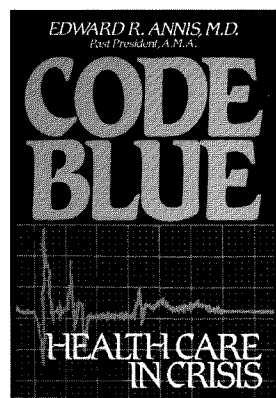
Historic Perspectives on The Battle Over Health Care Reform

Miguel A. Faria, Jr., M.D.

Miguel A. Faria, Jr., M.D. provides compelling arguments that answers to the dilemma of health care reform reside on the pages of history. This fascinating book draws parallels between the past and the present, from a time when

the fine line separating myth and history was blurred and indistinguishable to the clearly troubled present.

(403 pp., 1995, Illustrations, Bibliography, Index, ISBN: 0-9641077-0-8, \$41.95)



Code Blue

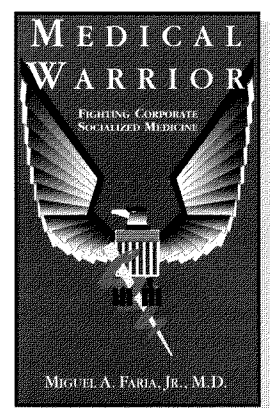
Health Care In Crisis

Edward R. Annis, M.D.

What the press doesn't tell the public—but Dr. Annis does—is that health care problems have a “Made in Washington” label. *Code Blue* shows how “managed care” is in fact a “managed” process that would empower the patient by breaking the tie between job and health insurance and even would

allow the gradual phasing out of Medicare.”

(278 pp., 1993, Index, ISBN: 0-89526-515-X, \$21.95)



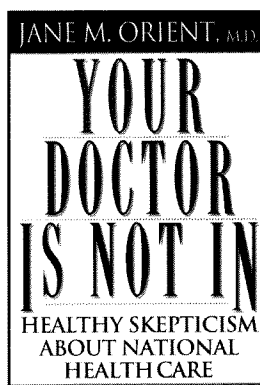
Medical Warrior

Fighting Corporate Socialized Medicine

Miguel A. Faria, Jr., M.D.

In this book of essays, Dr. Faria, argues that managed care and HMOs are not “free market” alternatives, but rather an unholy partnership of government and corporate interests seeking monopolistic government protection to eliminate competition while changing the ethics of medicine from a Hippocratic ethic to a false corporate morality. *Medical Warrior* offers workable solutions to restore medicine to its rightful place.

(207 pp., 1997, Selected Bibliography, Index, ISBN: 0-9641077-2-4, \$23.95)



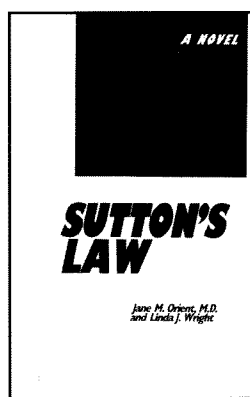
Your Doctor Is Not In

Jane M. Orient, M.D.

In this provocative book, a brilliant, committed physician, a leader in medicine argues for solutions to the crisis in medicine that are bold, thoughtful, and fundamentally opposed to those being widely touted today—including “managed care” systems. From her perspective, there is already too much government involvement in

medicine, too much regulation, too much insurance—which is actually prepayment in disguise. These are the root causes of the accelerating rise in fees and costs, the neglect of patients, and stagnation in the science of medicine itself. This book is certain to add fresh energy to the debate over the quality and availability of medical care in America.

(276 pp., 1994, Index, ISBN: 0-517-59011-5, \$23.00)



Sutton's Law

Jane M. Orient, M.D. and Linda J. Wright

Sutton's Law is a “frightening realistic novel about where managed care might very well lead us...A mix of medicine, mystery, murder, and intrigue with a little high finance, drugs, and romance—*Sutton's Law* ultimately is about greed and simple justice.”

(299 pp., 1997, ISBN: 0-9641077-1-6, \$21.95)

Qty	Item	Unit Price	Total
Price			
_____	<i>Vandals at the Gates of Medicine</i>	\$41.95	\$ _____
_____	<i>Your Doctor Is Not In</i>	\$23.00	\$ _____
_____	<i>Code Blue</i>	\$21.95	\$ _____
_____	<i>Sutton's Law</i>	\$21.95	\$ _____
_____	<i>Medical Warrior</i>	\$23.95	\$ _____
	Subtotal:		\$ _____
	Shipping & Handling		\$ 3.00
	Total:		\$ _____

☐ Check or money order enclosed

Please charge my ☐ Visa ☐ Mastercard ☐ AMEX ☐ Discover

Card # _____ Expiration _____

Signature _____

Name: _____

Street _____

City _____ State _____ Zip _____

800-757-9873

Hacienda Publishing, Inc. • P.O. Box 13648 • Macon, Georgia 31208-3648 • www.haciendapub.com

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The Heartland Institute's Board of Legislative Advisors

Welcome to the newest members of Heartland's Board of Legislative Advisors!

Hon. Peter L. Batula
Representative
State of **New Hampshire**
12 Paige Drive
Merrimack, NH 03054-2837

Hon. Bill Boucher
Representative
State of **Missouri**
11320 Sunnyslope Drive
Kansas City, MO 64134

Hon. Karin Brownlee
Senator
State of **Kansas**
1232 South Lindenwood Drive
Olathe, KS 66062

Hon. Richard J. Cohen
Senator
State of **Minnesota**
591 Cretin Avenue
St. Paul, MN 55116

Hon. Lawrence H. Curry
Representative
State of **Pennsylvania**
115 West Avenue #211
Jenkintown, PA 19046

Hon. Robert W. Duplessie
Representative
State of **Maine**
41 Carol Street
Westbrook, ME 04092

Hon. Joseph P. Green
Representative
State of **Alaska**
716 West Fourth #350
Anchorage, AK 99501-2133

Hon. David L. Jordan
Senator
State of **Mississippi**
P.O. Box 8173
Greenwood, MS 38930

Hon. Jerry Krummel
Representative
State of **Oregon**
30945 SW Boones Ferry Road
Wilsonville, OR 97070

Hon. Patricia A. Lockwood
Representative
State of **Michigan**
P.O. Box 30014
Lansing, MI 48909-7514

Hon. Stephen H. Martin
Senator
State of **Virginia**
P.O. Box 36147
Richmond, VA 23235-8003

Hon. Joseph E. Miro
Representative
State of **Delaware**
5 Firechase Circle
Newark, DE 19711

Hon. Manny Najera
Representative
State of **Texas**
1716 Mike Hill
El Paso, TX 79936

Hon. Richard A. Nass
Representative
State of **Maine**
2924 Milton Mills Road
Acton, ME 04001

Hon. Mary Ellen Otremba
Representative
State of **Minnesota**
Route 2 Box 17
Long Prairie, MN 56347-9561

Hon. Ron Peterson
Representative
State of **Oklahoma**
646 Meadwood Drive
Broken Arrow, OK 74011

Hon. Debbie Shea
Senator
State of **Montana**
100 Moon Lane
Butte, MT 59701-3975

Hon. Jonathan Thomas
Representative
State of **Maine**
P.O. Box 446
Orono, ME 04473

Care to join them?

Complete the form on page 9,
or contact Heartland's Public
Affairs Director, Greg Lackner,
at 312/377-4000, email
lackner@heartland.org.

Hon. William F. Andrews
Representative
State of **Florida**
33 NorthEast 4th Avenue
Delray Beach, FL 33483-4528

Hon. Thomas E. Armstrong
Representative
State of **Pennsylvania**
430 Locust Street
Columbia, PA 17512

Mr. Lee Barrett
County Commissioner
Kane County District 21
34 West 49 Fox River Drive
East Dundee, IL 60118

Hon. Jim F. Battin
Senator
State of **California**
State Capitol
Sacramento, CA 95814

Hon. Bob Beers
Assemblyman
State of **Nevada**
9428 Grenville Avenue
Las Vegas, NV 89134-6206

Hon. Max C. Black
Representative
State of **Idaho**
3731 Buckingham Drive
Boise, ID 83704

Hon. Edward Blackmon Jr.
Representative
State of **Mississippi**
P.O. Drawer 105
Canton, MS 39046

Hon. John M. Blust
Representative
State of **North Carolina**
State Legislative Building
Raleigh, NC 27601-1096

Hon. Larry K. Bomke
Senator
State of **Illinois**
Capitol Building #111
Springfield, IL 62706

Hon. Garry Boston
Representative
State of **Kansas**
14 Circle Drive
Newton, KS 67114-1239

Hon. W. Ric Branch
Senator
State of **Idaho**
3770 North Crane Road
Midvale, ID 83645

Hon. Mary E. Brown
Senator
State of **New Hampshire**
35 Center Road
Chichester, NY 03234-6215

Hon. Virginia Brown-Waite
Senator
State of **Florida**
20 North Main Street #200
Brooksville, FL 34601

Hon. Harold R. Bunderson
Senator
State of **Idaho**
582 River Heights Drive
Meridian, ID 83642

Hon. Scott Bundgaard
Senator
State of **Arizona**
1700 West Washington Street
Phoenix, AZ 85007-2890

Hon. Sue Burmeister
Representative
State of **Georgia**
P.O. Box 212176
Augusta, GA 30917-2176

Hon. J. Bradley Burzynski
Senator
State of **Illinois**
505 DeKalb Avenue
Sycamore, IL 60178

Hon. Deborah H. Capano
Representative
State of **Delaware**
1022 Oriente Avenue
Wilmington, DE 19807-2261

Hon. Gerald Cardinale
Senator
State of **New Jersey**
350 Madison Avenue
Cresskill, NJ 07626

Hon. Bob Casey
Representative
State of **Florida**
2811 NW 12th Place #L
Gainesville, FL 32606-6569

Hon. Doyle Childers
Senator
State of **Missouri**
P.O. Box 127
Reeds Spring, MO 65737

Hon. Warren Chisum
Representative
State of **Texas**
P.O. Box 2061
Pampa, TX 79066

Hon. Edward J. Cirillo
Senator
State of **Arizona**
14404 Sky Hawk Drive
Sun City West, AZ 85375

Hon. J. Murray Clark
Senator
State of **Indiana**
200 West Washington Street
Indianapolis, IN 46204-2785

The Heartland Institute's Board of Legislative Advisors

Hon. Betsy Close
Representative
State of **Oregon**
5220 NW Winn Drive
Albany, OR 97321

Hon. Raymond V. Collins
Representative
State of **Connecticut**
Six Morris Street
West Haven, CT 06516

Hon. Frank J. Corte Jr.
Representative
State of **Texas**
5410 Fredricksburg #302
San Antonio, TX 78229

Hon. Marc A. Cote
Senator
State of **Rhode Island**
144 Woodland Road
Woonsocket, RI 02895

Hon. Elizabeth Coulson
Representative
State of **Illinois**
3801 West Lake Avenue
Glenview, IL 60025

Hon. Anna P. Cowin
Senator
State of **Florida**
P.O. Box 490238
Leesburg, FL 34749

Hon. Mary Lou Cowlshaw
Representative
State of **Illinois**
552 South Washington Street #119
Naperville, IL 60540

Hon. Henry Cuellar
Representative
State of **Texas**
1519 Washington #201
Laredo, TX 78040

Hon. Robert R. Damron
Representative
State of **Kentucky**
231 Fairway West
Nicholasville, KY 40356

Hon. Ann P. Dandrow
Representative
State of **Connecticut**
39 Tanglewood Drive
Southington, CT 06489

Hon. Sydnie Mae M. Durand
Representative
State of **Louisiana**
P.O. Box 2840
Parks, LA 70582

Hon. John S. Edwards
Senator
State of **Virginia**
P.O. Box 1179
Roanoke, VA 24006-1179

Hon. George S. Eichhorn
Representative
State of **Iowa**
State Capitol
Des Moines, IA 50319

Hon. Theresa H. Esposito
Representative
State of **North Carolina**
207 Stanaford Road
Winston-Salem, NC 27104-2721

Hon. Barbara Everist
Senator
State of **South Dakota**
709 Tomar Road
Sioux Falls, SD 57105-7053

Hon. Ruth C. Fahrbach
Representative
State of **Connecticut**
P.O. Box 279
Windsor, CT 06095

Hon. Howard L. Fargo
Representative
State of **Pennsylvania**
315 Elm Street
Grove City, PA 16127

Mr. Scott Farmer
Finance Director
South Carolina Republican Party
1508 Lady Street
Columbia, SC 29201

Hon. Margaret A. Farrow
Senator
State of **Wisconsin**
14905 Watertown Plank Road
Elm Grove, WI 53122

Mr. Charles B. Fitzgerald IV
Supervisor
Shields Township
906 Muir Avenue
Lake Bluff, IL 60044

Hon. Francis E. Flotron
Senator
State of **Missouri**
14 Arrowhead
Chesterfield, MO 63017

Hon. Stanley H. Fox
Representative
State of **North Carolina**
P.O. Box 1206
Oxford, NC 27565

Hon. Hillman Frazier
Senator
State of **Mississippi**
2066 Queensroad Avenue
Jackson, MS 39213

Hon. G. Michael Gilman
Representative
State of **New Hampshire**
PO Box 294
Littleton, NH 03561-4515

Hon. David Goodman
Representative
State of **Ohio**
875 South Remington Road
Bexley, OH 43209

Hon. Linda Gray
Representative
State of **Arizona**
4535 West Columbine Drive
Glendale, AZ 85304

Hon. Sandra H. Greiner
Senator
State of **Iowa**
State Capitol
Des Moines, IA 50319

Hon. Glenn Grothman
Representative
State of **Wisconsin**
111 South Sixth Avenue
West Bend, WI 53095

Hon. Arlene H. Ham
Senator
State of **South Dakota**
1116 Crestridge Court
Rapid City, SD 57701

Hon. Beverly S. Hammerstrom
Senator
State of **Michigan**
520 Farnum Building
Lansing, MI 48909

Hon. John A. Hart Jr.
Representative
State of **Massachusetts**
472 State House
Boston, MA 02133

Hon. Raymond N. Haynes
Senator
State of **California**
6840 Indiana Avenue #275
Riverside, CA 92506

Hon. Mark D. Hillman
Senator
State of **Colorado**
P.O. Box 245
Burlington, CO 80807

Hon. Ted Hobbs
Representative
State of **New Mexico**
1415 Catron Avenue SE
Albuquerque, NM 87123

Hon. Dennis Hollingsworth
Assemblyman
State of **California**
State Capitol
Sacramento, CA 95814

Hon. Hamilton C. Horton Jr.
Senator
State of **North Carolina**
860 Englewood Drive
Winston-Salem, NC 27106

Hon. Charlie Howard
Representative
State of **Texas**
14100 SW Freeway #200
Sugarland, TX 77478

Hon. Godfrey Howard
Representative
State of **New Hampshire**
P.O. Box 320
Mirror Lake, NH 03853-0320

Hon. Julia C. Howard
Representative
State of **North Carolina**
330 South Salisbury Street
Mocksville, NC 27028

Hon. Grant R. Ipsen
Senator
State of **Idaho**
1010 Houston Road
Boise, ID 83706

Hon. Marilyn Jarrett
Representative
State of **Arizona**
4228 East Hope
Mesa, AZ 85205

Hon. Joni L. Jenkins
Representative
State of **Kentucky**
2010 O'Brien Court
Shively, KY 40216

Hon. Scott R. Jensen
Representative
State of **Wisconsin**
850 South Springdale Road
Waukesha, WI 53186-1412

Hon. Karen S. Johnson
Representative
State of **Arizona**
1700 West Washington
Phoenix, AZ 85007

Hon. Thomas L. Johnson
Representative
State of **Illinois**
27 West 031 North Avenue
West Chicago, IL 60185

Hon. Jesse W. Jones
Representative
State of **Texas**
7125 Marvin D Love #325
Dallas, TX 75237-3156

Hon. Howard Kaloogian
State Assemblyman
State of **California**
701 Palomar Airport Road
Carlsbad, CA 92009

Hon. Jim Kasper
Representative
State of **North Dakota**
1128 Westrac Drive
Fargo, ND 58103

The Heartland Institute's Board of Legislative Advisors

Hon. David J. Klarich
Senator
State of **Missouri**
7700 Bonhomme - 7th Floor
Clayton, MO 63105

Hon. Ted A. Klautt
Representative
State of **South Dakota**
Capitol Building
Pierre, SD 57501-5070

Hon. Marguerite M. Kleven
Senator
State of **South Dakota**
P.O. Box 687
Sturgis, SD 57785-0687

Hon. Martha S. Klima
Delegate
State of **Maryland**
308 Lowe House Office Building
Annapolis, MD 21401

Hon. Thomas F. Koch
Representative
State of **Vermont**
326 Lowery Road
Barre, VT 05641

Hon. Ivan C. Lafayette
Assemblyman
State of **New York**
33-46 - 92nd Street #1W
Jackson Heights, NY 11372

Hon. Kathy Lambert
Representative
State of **Washington**
PO Box 1138
Woodinville, WA 98072

Hon. Frank G. Lasee
Representative
State of **Wisconsin**
1735 Keehan Lane
Bellevue, WI 54311

Hon. Peggy L. Long
Representative
State of **Kansas**
State Capitol - 446-N
Topeka, KS 66612

Hon. Andre A. Martel
Representative
State of **New Hampshire**
237 Riverdale Avenue
Manchester, NH 03103-7301

Hon. Barbara Marumoto
Representative
State of **Hawaii**
415 South Beretania Street #313
Honolulu, HI 96813

Hon. Frank M. Mazur
Representative
State of **Vermont**
52 Bartlett Bay Road
S. Burlington, VT 05403

Hon. Frank McDaniel
Representative
State of **Alabama**
P.O. Box 577
Albertville, AL 35950

Hon. Denny J. Merideth III
Representative
State of **Missouri**
Route 1 Box 259
Caruthersville, MO 63830

Hon. Tommy Merritt
Representative
State of **Texas**
201 Estes Drive
Longview, TX 75603

Hon. David Minge
Congressman
State of **Minnesota**
1415 Longworth House Office Building
Washington, DC 20515-2302

Hon. Frank Mrvan Jr.
Senator
State of **Indiana**
State House
Indianapolis, IN 46204

Hon. Eldon Mulder
Representative
State of **Alaska**
716 West Fourth #310
Anchorage, AK 99501-2133

Hon. Connie Myers
Assemblyman
State of **New Jersey**
124 West Washington Avenue
Washington, NJ 07882

Hon. Stephen L. Nass
Representative
State of **Wisconsin**
W8948 Willis Ray Road
Whitewater, WI 53190

Hon. Dennis E. Nolan
Assemblyman
State of **Nevada**
PO Box 82194
Las Vegas, NV 89180

Hon. Kay O'Connor
Senator
State of **Kansas**
300 SW 10th Avenue
Topeka, KS 66612-1504

Hon. William L. Ogg
Representative
State of **Ohio**
609 Sycamore Street
Sciotoville, OH 45662

Hon. Luther S. Olsen
Representative
State of **Wisconsin**
N2021 Highway 49
Berlin, WI 54923

Mr. Michael S. Olszewski
Clerk
Hanover Township
8N180 Route 59
Bartlett, IL 60103-1628

Mr. Dave Owen
Editorial Page Editor
The Parkersburg Sentinel
519 Juliana Street
Parkersburg, WV 26101-5135

Hon. Bill Owens
Governor
State of **Colorado**
136 State Capitol Building
Denver, CO 80203

Hon. Steven C. Panagiotakos
Senator
State of **Massachusetts**
518 State House
Boston, MA 02133

Hon. Kathleen K. Parker
Senator
State of **Illinois**
191 Waukegan Road #200
Northfield, IL 60093

Hon. Jewell D. Patek
Representative
State of **Missouri**
P.O. Box 55
Chillicothe, MO 64601

Hon. Bob Plunk
Representative
State of **Oklahoma**
P.O. Box 237
Ada, OK 74820

Hon. Clay Pope
Representative
State of **Oklahoma**
Route 1 Box 76
Loyal, OK 73756

Hon. Thomas E. Price
Senator
State of **Georgia**
295 Broadmeadow Cove
Roswell, GA 30075

Hon. Eileen Qutub
Senator
State of **Oregon**
11135 Partridge Loop
Beaverton, OR 97007

Hon. Christine Radogno
Senator
State of **Illinois**
521 South LaGrange Road #104
LaGrange, IL 60525

Hon. Mary Lou Rath
Senator
State of **New York**
5500 Main Street #260
Williamsville, NY 14221-6737

Hon. Steven J. Rauschenberger
Senator
State of **Illinois**
1112 South Street
Elgin, IL 60123

Hon. Alzo J. Reddick Sr.
Representative
State of **Florida**
725 South Goldwyn Avenue
Orlando, FL 32805-2903

Hon. Pam Redfield
Senator
State of **Nebraska**
5036 South 94th Avenue
Omaha, NE 68127

Ms. Sharon Rich
Chief of Staff
Sen. Mary Lou Rath
State of **New York**
5500 Main Street #260
Williamsville, NY 14221

Hon. Andrew C. Richner Jr.
Representative
State of **Michigan**
718 Berkshire Road
Grosse Pointe Park, MI 48230

Hon. James R. Roebuck Jr.
Representative
State of **Pennsylvania**
4800 Baltimore Avenue
Philadelphia, PA 19143

Hon. Tommy G. Roebuck
Representative
State of **Arkansas**
350 State Capitol Building
Little Rock, AR 72201-1089

Hon. Richard L. Roeding
Senator
State of **Kentucky**
2534 Kearney Court
Lakeside Park, KY 41017

Hon. Roger P. Roy
Representative
State of **Delaware**
Three Citation Court
Wilmington, DE 19808

Hon. George Runner
Assemblyman
State of **California**
709 West Lancaster Boulevard
Lancaster, CA 93534

Hon. Bobby L. Rush
Congressman
State of **Illinois** - 1st District
2416 Rayburn House Office Building
Washington, DC 20515-9997

The Heartland Institute's Board of Legislative Advisors

Hon. Bob Schaffer
Congressman
State of **Colorado** - 4th District
212 Cannon House Office Building
Washington, DC 20515-0604

Hon. Dan Schottel
Representative
State of **Arizona**
1700 West Washington
Phoenix, AZ 85007

Hon. Neal Schuerer
Senator
State of **Iowa**
P.O. Box 2000
Amana, IA 52203

Hon. Howard C. Scipio
Representative
State of **Connecticut**
30 Bellevue Road
New Haven, CT 06511

Hon. William R. Sharpe Jr.
Senator
State of **West Virginia**
607 Center Avenue
Weston, WV 26452-2122

Hon. James C. Simpson Jr.
Representative
State of **Mississippi**
Po Box 460
Gulfport, MS 36502

Hon. Marvin A. Singleton
Senator
State of **Missouri**
114 West 32nd Street
Joplin, MO 64804

Ms. Roberta Soltz
Chief of Staff
Senator Raymond N. Haynes
State of **California**
6800 Indiana Avenue #130
Riverside, CA 92506-4266

Hon. Carol Springer
State Treasurer
State of **Arizona**
1700 West Washington Street
Phoenix, AZ 85007

Hon. Douglas K. Stalnaker
Delegate
State of **West Virginia**
568 West Second Street
Weston, WV 26452

Hon. Howard A. Stephenson
Senator
State of **Utah**
1038 East 13590 South
Draper, UT 84020

Hon. Harry C. Stille
Representative
State of **South Carolina**
Nine Dogwood Drive
Due West, SC 29639-0203

Hon. Dave Syverson
Senator
State of **Illinois**
200 South Wyman Street #302
Rockford, IL 61101

Hon. Robert E. Talton
Representative
State of **Texas**
3622 Fairmount Parkway #B
Pasadena, TX 77504-3072

Hon. Robert J. Thompson
Senator
State of **Pennsylvania**
15 West Gay Street
West Chester, PA 19380

Hon. Matt Throckmorton
Representative
State of **Utah**
388 West 100 South
Springville, UT 84663

Hon. Dale B. Tillery
Representative
State of **Texas**
8344 East R.L. Thornton #304
Dallas, TX 75228

Hon. Harry B. Tipton
Representative
State of **Wyoming**
745 Buena Vista
Lander, WY 82520

Hon. Steve Vaillancourt
Representative
State of **New Hampshire**
161 Faith Lane
Manchester, NH 03103-7156

Hon. Carlos L. Valdes
Representative
State of **Florida**
7175 SW 8th Street #201
Miami, FL 33144-4671

Hon. Thomas A. Varrell
Representative
State of **New Hampshire**
P.O. Box 193
Danville, NH 03819-0193

Hon. Lewis R. Vaughn
Representative
State of **South Carolina**
388 Pinecroft Drive
Taylors, SC 29687

Hon. Ray L. Vaughn Jr.
Representative
State of **Oklahoma**
408 Timberdale Drive
Edmond, OK 73034

Hon. Ron J. Volesky
Senator
State of **South Dakota**
592 Dakota Avenue South
Huron, SD 57350

Mr. Tony L. Walker
City Commissioner
City of Battle Creek
73 Hubbard Street
Battle Creek, MI 49017

Hon. David A. Welch
Representative
State of **New Hampshire**
P.O. Box 570
Kingston, NH 03848-0570

Hon. Robert T. Welch
Senator
State of **Wisconsin**
P.O. Box 523
Redgranite, WI 54970

Hon. Jim Welsh
Representative
State of **Oregon**
P.O. Box 458
Elmira, OR 97437-0458

Hon. Mark Weprin
Assemblyman
State of **New York**
61-08 - 224th Street
Bayside, NY 11364

Hon. Ben West Jr.
Representative
State of **Tennessee**
4013 Port Cleburne Lane
Hermitage, TN 37076

Hon. Jack D. Westwood
Senator
State of **Kentucky**
36 Forest Avenue
Erlanger, KY 41018

Hon. Lenny T. Winkler
Representative
State of **Connecticut**
151 Pamela Avenue
Groton, CT 06340

Hon. Stephen R. Wise
Representative
State of **Florida**
P.O. Box 7914
Jacksonville, FL 32238-0914

Hon. Kate Witek
State Auditor
State of **Nebraska**
P.O. Box 98917
Lincoln, NE 68509-8917

Hon. Arlene Wohlgenuth
Representative
State of **Texas**
201 West Ellison Street #201
Burlson, TX 76028

Hon. Brent Yonts
Representative
State of **Kentucky**
232 Norman Circle
Greenville, KY 42345

EMERITUS ADVISORS

Mr. Charles Byrne
2412 Euclid Heights Blvd. #302
Cleveland Heights, OH 44106-2759

Mr. Martin S Harris Jr.
Columnist
2387 Maple
Vergennes, VT 05491

Hon. Charles F. Horn
Principal
Center for Regional Economic Strategies
2323 West Schantz Avenue
Dayton, OH 45409

Mr. Penn R. Pfiffner
Consulting Economist
Construction Economics
38 South Zinnia Way
Lakewood, CO 80228

Hon. Dale N. Van Vyven
Representative-Retired
State of Ohio
4799 Fields-Ertel Road
Sharonville, OH 45241

Tell Us What You Think, Get a Free Gift.

Please take a few minutes to fill out the survey below
and fax it back to us at 312/377-5000.
To thank you, we'll send you a Heartland tote bag.



~ Intellectual Ammunition ~

1. How many minutes did you spend reading this issue? ☐ fewer than 5 ☐ 5 to 15 ☐ 15 to 30 ☐ over 30
2. Will you keep this issue for future reference? ☐ yes ☐ no
3. Is *Intellectual Ammunition* a **useful** tool that you use in the course of your work? ☐ always ☐ usually ☐ sometimes ☐ never
4. Do you think the information in *Intellectual Ammunition* is **reliable**? ☐ always ☐ usually ☐ sometimes ☐ never
5. Does *Intellectual Ammunition* address issues in a **timely** fashion? ☐ always ☐ usually ☐ sometimes ☐ never
6. Are there topics that should be regularly addressed in *Intellectual Ammunition* but currently aren't? If so, please list. _____
7. How could *Intellectual Ammunition* be improved? _____

~ PolicyFax & PolicyBot ~

8. Have you ever used *PolicyFax* or *PolicyBot* to request complete copies of the documents cited in this magazine? ☐ yes (go to question 9) ☐ no (skip to question 10)
9. If yes, would you use *PolicyFax* or *PolicyBot* again? ☐ yes ☐ no
(skip to question 11)
10. If no, why not? ☐ never heard of it ☐ no fax machine ☐ no internet access ☐ not interested ☐ don't know
☐ other _____

~ The Heartland Institute ~

11. How would you characterize The Heartland Institute's reputation among your peers? ☐ excellent ☐ very good ☐ adequate ☐ fair ☐ poor
12. How would you rate The Heartland Institute's overall performance? ☐ excellent ☐ very good ☐ adequate ☐ fair ☐ poor
13. Other comments _____
14. Can we quote you in future promotional efforts? ☐ yes ☐ no

Fax to 312/377-5000. Or mail to **The Heartland Institute**, 19 South LaSalle Street #903, Chicago, IL 60603.

The Heartland Institute
19 South LaSalle, Suite 903
Chicago, Illinois 60603

Non-profit organization
U.S. POSTAGE
PAID
CHICAGO, ILL.
Permit No. 4826